# LAWS

OF

# THE STATE OF INDIANA,

PASSED AT THE

THIRTY-EIGHTH SESSION

OF THE

## GENERAL ASSEMBLY.

BEGUN ON THE 4TH DAY OF JANUARY, A.D. 1855.

BY AUTHORITY.

INDIANAPOLIS:
AUSTIN H. BROWN, STATE PRINTER.
1855.

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# LAWS.

## CHAPTER I.

AN ACT making general appropriations for the years 1855 and 1856.

[APPROVED MARCH 3, 1855.]

Appropriations for 1855.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That for the purpose of meeting the expenses of the State government, for the year one thousand eight hundred and fifty-five, the following sums are hereby appropriated, to-wit: For the General Assembly, forty-five thousand dollars; for the judiciary, twenty thousand dollars; for the executive offices [officers], eight thousand dollars; for prosecuting attorneys, thirty-five hundred dollars; for the State prison, ten thousand dollars; for public printing and binding fifteen thousand dollars; for fuel and stationery, five thousand dollars; for specific appropriations, three thousand dollars; for distribution of laws and journals, one thousand dollars; for the State library, two thousand dollars; for the State House, one thousand dollars; for the Governor's House, six hundred dollars; for the Governor's Circle, two hundred dollars; for contingent fund, three thousand dollars; for attorneys' fees of last year, twelve hundred dollars; for miscellaneous disbursements, two thousand dollars; on account of Revised Statutes, due Ellis & Spann for printing for 1853, seven thousand nine hundred and thirty-eight dollars and sixty-nine cents; for Supreme Court Reports, two thousand dollars.

For the current year, Benevolent Institutions.

SEC. 2. That the sum of forty-four thousand six hundred and thirty-four dollars and fifty-eight cents be appropriated to the Institution for the Education of the Blind, the same to be applied as follows, to-wit: For current expenses up to the 1st day of April, 1855, four thousand dollars; for current expenses from the 1st day

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of April, 1855, to the 1st day of April, 1856, fourteen thousand four hundred and fifty dollars; for the discharge of the present debt of said Institution, twenty-one thousand three hundred and thirty-four dollars and fifty-eight cents; for a heating apparatus, four thousand dollars; for a fence around the lot of ground in the rear of said Institution, four hundred and fifty dollars; for repairing the roof and gutters of the verandas and main buildings, four hundred dollars.

SEC. 3. That the sum of seventy-nine thousand four hundred and eighty-eight dollars be appropriated to the Hospital for the Insane, the same to be applied as follows, to-wit: For debt incurred on account of current expenses up to 31st October, 1854, five thousand dollars; for current expenses from the 31st day of October, 1854, to the 1st of April, 1855, nine thousand three hundred and fifty dollars; for current expenses from the 1st day of April, 1855, to the 1st day of April, 1856, thirty thousand dollars; for the payment of the amount advanced toward the completion of south wing, fifteen thousand dollars; and for the completion of the south wing, sixteen thousand one hundred and thirty-eight dollars; for furnishing the south wing, four thousand dollars.

SEC. 4. That the sum of twenty-five thousand dollars be appropriated to the Institute for the Education of the Deaf and Dumb, the same to be applied as follows, to-wit: For current expenses to April 1st, 1855, five thousand dollars; for current expenses from April 1st, 1855, to April 1st, 1856, twenty thousand dollars.

For the year 1856.

SEC. 5. That for the support of the State government for the year one thousand eight hundred and fifty-six, the following sums are appropriated, to wit: For the judiciary, twenty thousand dollars; for the executive officers, eight thousand dollars; for prosecuting attorneys, thirty-six hundred dollars; for Supreme Court Reports, two thousand dollars; for miscellaneous disbursements, fifteen hundred dollars; for public printing and binding, five thousand dollars; for fuel and stationery, four thousand dollars; on account of State Prison, five thousand dollars; on account of State House, five hundred dollars; for State Library, one thousand dollars; for contingent fund, three thousand dollars; for Supreme Court, one thousand dollars; for Governor's Circle, one hundred dollars; for the Governor's House, six hundred dollars.

Benevolent Institutions.

SEC. 6. That the sum of fifteen thousand four hundred and fifty dollars be appropriated for the support of

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the Institution of the Blind from the first day of April, 1856, to the first day of April, 1857, to defray the current expenses of said Institution.

SEC. 7. That the sum of fifty-three thousand dollars be appropriated to the Hospital for the Insane, the same to be applied as follows, to-wit: For current expenses from the first day of April, 1856, to the first day of April, 1857, thirty thousand dollars; for the discharge of the old debt of the sinking fund, eleven thousand dollars, with interest; for money borrowed from the sinking fund on account of Hospital buildings, twelve thousand dollars, with interest.

SEC. 8. That the sum of twenty thousand and five hundred dollars be appropriated to the Indiana Institute for the Education of the Deaf and Dumb, the same to be applied to the payment of current expenses from April 1st, 1856, to April 1st, 1857; and the further sum of twenty-five hundred dollars is also appropriated for procuring the necessary fixtures and lighting the said Institution with gas, but no part of such sum shall be drawn from the treasury, or used, unless the said appropriation shall discharge the whole cost and expense attending such improvement; and the further sum of twenty-five hundred dollars is also hereby appropriated for the completion of the verandas of said building, but no part of such sum shall be drawn from the treasury, unless the said appropriation will discharge the whole cost of such improvement.

SEC. 9. The officers of the said Benevolent Institutions are directed to confine their expenditures strictly within the amounts of the appropriations in this act provided for, and are prohibited from incurring any indebtedness; and the officers of State shall not permit any warrants to issue, or to be paid, nor advance any money to such Institutions after such appropriations are exhausted; and the sinking fund commissioners are prohibited from loaning or advancing any money to either of such Institutions.

SEC. 10. The Governor, Treasurer, and Auditor of State are directed to superintend the application of the appropriations towards the payment and discharge of the several debts of the Benevolent Institutions as there provided, and obtain the proper vouchers for such payments, and report their action to the next General Assembly, setting out the items of such payments.

Emergency.

SEC. 11. Because of the necessity that some of the appropriations made under this act should be at once applied towards the payment of the current expenses of

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the State, it is declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

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## CHAPTER II.

AN ACT making specific appropriations for the year A. D. 1855.

[APPROVED MARCH 5, 1855.]

Secretaries of the Senate and principal clerk of the House.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the principal and assistant secretaries of the Senate, and the principal and assistant clerks of the House of Representatives shall each be allowed the sum of four dollars per day for every day they may have served as such during the present session of the General Assembly; and that such assistants as may have been necessarily employed by them be allowed the sum of four dollars for each day so employed, to be ascertained and certified by the said secretaries of the Senate and clerks of the House of Representatives respectively.

Assistant doorkeepers of the Senate and House of Representatives, and the clerks of the committees of each House.

SEC. 2. That the assistant doorkeepers of the Senate and House of Representatives, and the clerks of the committees of each House, shall each receive three dollars per day, except J. L. Dew, assistant doorkeeper of the House of Representatives, and Mr. Bigler, assistant doorkeeper of the Senate, shall receive four dollars per day, during the time they have been actually employed as such. The number of days which the assistant doorkeepers have served shall be certified by the principal doorkeepers of their respective Houses, and the number of days which the clerks of committees shall have been in the actual employment of such committees shall be certified by the chairmen of the several committees, except clerks to the committee on ways and means of the House of Representatives, and the clerk of the committee on finance and judiciary of the Senate, who shall receive four dollars per day; but if any clerk shall have served more than one committee on the same day, he shall receive pay but for one committee, nor shall any clerk receive pay for more than sixty-one days.

Doorkeeper of the Senate, and the doorkeeper and assistant of the House of Representatives.

SEC. 3. That the doorkeeper of the Senate and the doorkeeper and assistant of the House of Representatives be allowed four dollars per day for each day they may have

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served as such, to be certified by the presiding officers of the two Houses respectively.

Assistant clerk of the House of Representatives for superintending the printing, &c.

SEC. 4. That the assistant clerk of the House of Representatives, for superintending the printing, and reading proofs of the House Journal, and preparing an index for the same, be allowed the sum of one hundred dollars, the principal clerk being sick; and that the first assistant to the principal clerk shall certify to the time of the other assistants to the principal clerk of the House.

Principal secretary of the Senate for superintending the printing, &c.

SEC. 5. That the principal secretary of the Senate, for superintending the printing and reading proofs of the Senate Journal, and preparing an index for the same, be allowed the sum of one hundred dollars.

John M. Lord, Agent of State.

SEC. 6. That John M. Lord, Agent of State, be allowed one-eighth of one per cent. for receiving and disbursing one hundred and forty-eight thousand five hundred and twenty-seven dollars and eighty-four cents, township library fund.

Wm. B. Beach, clerk of supreme court.

SEC. 7. That William B. Beach, clerk of the Supreme Court of the State of Indiana, for copies of record of decisions of the Supreme Court, in the cases of Greencastle Township *et al. vs.* Black *et al.*, Maize *v.* The State, Applegate *v.* Lansgton *et al.*, State *et al. v.* Springfield Township, and one copy of opinion overruling petition for rehearing, be allowed the sum of fifty-nine dollars and ten cents, as per account on file.

John Gobin.

SEC. 8. That John Gobin be allowed the sum of forty dollars in full for his expenses in arresting James Dustin, a fugitive from justice, charged and convicted of larceny.

Charles Wall.

SEC. 9. That Charles Wall be allowed the sum of forty-two dollars in full for his expenses in arresting H. A. Mayer *alias* Augustus H. ————————, at Cincinnati, Ohio, charged with grand larceny, and delivering him to the proper authorities in the State of Indiana.

Auditor and Treasurer of State to allow Elijah Newland.

SEC. 10. That the Auditor and Treasurer of State be, and they are hereby, authorized to allow out of the Swamp Land Fund, to the late Treasurer of State, one-fourth of one per cent. upon the amount of said fund by him received; and one-fourth of one per cent. upon the amount of said fund by him disbursed and upon ascertaining the amounts to issue a warrant therefor.

Auditor and Treasurer authorized to allow the Governor and former Treasurer of State.

SEC. 11. That the Auditor and Treasurer be, and they are hereby, authorized to allow the Governor and the former Treasurer of State their expenses in visiting New York and Washington, in pursuance of a resolution of the General Assembly, for the purpose of examining into the condition of stocks of Indiana, the lost bonds of the State, and the amount of the three per cent.

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fund paid due to the State, upon a bill of items of said expenses being filed.

Henry P. Thornton. SEC. 12. That Henry P. Thornton be allowed the sum of twenty-five dollars in full for services rendered at the October term of the Harrison Circuit Court, 1854, as Prosecutor, as per accompanying certificate, &c.

William Sykes. SEC. 13. That there be allowed to the estate of William Sykes, deceased, the sum of five hundred and fifty dollars and ninety-five cents, being a balance due him for services rendered in his lifetime as agent of the State to prevent waste and injury on the swamp lands belonging to the State.

Isaac Naylor. SEC. 14. That Isaac Naylor, for services rendered as special Prosecutor at the March term of the Boone Circuit Court for 1853, be allowed the sum of twenty dollars, as per certificate filed.

James Harrison. SEC. 15. That James Harrison, for services rendered as special Prosecutor at the October term of the Shelby Circuit Court, 1854, be allowed the sum of twenty-five dollars, as per certificate and order on file.

David Deman. SEC. 16. That David Deman be allowed the sum of ninety-seven dollars in full for his services in reclaiming Robert Hopkins, a fugitive from justice, under a requisition from the Governor of Indiana, and delivering him to the proper authorities of this State.

D. C. Thomas. SEC. 17. That D. C. Thomas be allowed for expenses and services rendered by him in the apprehension and conviction of Langford and Barrett for grand larceny, the sum of one hundred and ten dollars, as per account on file.

Governor, Auditor and Treasurer to allow Charles H. Test. SEC. 18. That Charles H. Test, late Secretary of State, be allowed such sum as the Governor, Auditor, and Treasurer of State shall deem just and proper for extra services and clerk hire, and superintending the publication of the Revised Statutes of 1852, which shall be audited and paid as other allowances are audited and paid.

Estate of Horace E. Carter. SEC. 19. That the sum of one hundred and fifty dollars be allowed the estate of Hon. Horace E. Carter, deceased, late Reporter to the Supreme Court, as a compensation for an extra number of pages added by him to the second volume of the Indiana Reports.

Christopher Staser. SEC. 20. That Christopher Staser, for services rendered and expenses incurred, under a requisition of his Excellency the Governor, in the arrest of Franklin Wilson, a fugitive from justice, be allowed the sum of twenty-nine dollars and twenty cents, in full for said services and expenses, as per account on file.

Premiums at State fair. SEC. 21. That one thousand dollars per annum be,

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and is hereby, appropriated for premiums at the State Fair, to be expended under the directions of the officers of the State, in connexion with the State Board of Agriculture, and payable upon the order of the Executive at the State Treasury; that no part of said appropriation made to the State Board is to be paid for printing, but in cash, the printing of reports being wholly independent.

Repairs upon Governor's House.

SEC. 22. That fifteen hundred dollars be, and is hereby, appropriated for the payment of fencing, out-buildings, stable, carriage-house, wood-house, and other improvements made upon the Governor's lot, and also to pay the loss by fire upon said property during the last year. That the sum of eight hundred dollars be, and is hereby, appropriated for the payment of furniture, paper, and work done upon the Governor's House.

Robert Crockett.

SEC. 23. That Robert Crockett be allowed the sum of fifteen dollars, for work and labor in hauling coal and cleansing spittoons for the House of Representatives.

Craighead & Browning.

SEC. 24. That Craighead & Browning be allowed the sum of forty-two dollars and thirty-one cents for sundries furnished the House of Representatives during the present session, as per account filed.

Timothy Carney.

SEC. 25. That Timothy Carney be allowed the sum of fourteen dollars and seventy cents, as per account filed, for hauling documents for the Senate and House, thirty-nine loads.

R. L. & A. W. McOuat.

SEC. 26. That R. L. & A. W. McOuat be allowed the sum of ten dollars and twenty cents for tinware furnished the General Assembly at its present session.

Messrs. Glenn.

SEC. 27. That Messrs. Glenn be allowed the sum of three dollars and forty-five cents, for sundries furnished the House of Representatives at its present session.

Samuel Goff.

SEC. 28. That Samuel Goff be allowed the sum of forty dollars for cleansing the privies of State House during the present session of the Legislature, by order of the doorkeepers of the Senate and House.

Wm. G. Wright.

SEC. 29. That William G. Wright be allowed the sum of eleven dollars and seventy-five cents for one pump furnished the State.

E. Despa.

SEC. 30. That E. Despa be allowed the sum of seven dollars for glass furnished and glazing done on the State House during the present session of the General Assembly.

Charles Mayer.

SEC. 31. That Charles Mayer be allowed the sum of four dollars and seventy cents for sundries furnished the House of Representatives during its present session.

Ludlow & Pierson.

SEC. 32. That Ludlow & Pierson be allowed the

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sum of nineteen dollars and eighty-five cents for sundries furnished the General Assembly during the present session.

Weaver & Williams.

SEC. 33. That Weaver & Williams be allowed the sum of one hundred and sixty-one dollars for work and labor and materials furnished for the State House at the present session as per bills on file.

Sheets & Braden.

SEC. 34. That Sheets & Braden be allowed the sum of forty-one dollars and thirty cents for stationery furnished the General Assembly at its present session as per bill on file.

Hannaman & Duzan.

SEC. 35. That Hannaman & Duzan be allowed the sum of twenty-nine dollars for stationery furnished to the Senate during the present session as per bill on file.

Jacob Lindley.

SEC. 36. That Jacob Lindley be allowed the sum of ten dollars for one and a half dozen glass tumblers, inkstands, and pitchers, furnished for the use of the Senate during the present session, as per bill on file.

J. M. Talbott.

SEC. 37. That J. M. Talbott be allowed the sum of twenty-four dollars for sundries furnished the General Assembly during the present session, as per bill on file.

Learned, Gardner & Co.

SEC. 38. That Learned, Gardner & Co., be allowed the sum of twenty-five dollars and twenty-five cents for brooms, buckets, matches, and brushes, &c., furnished for the use of the Senate during the present session, as per account on file.

Henry S. Kellogg.

SEC. 39. That Henry S. Kellogg be allowed the sum of thirty-two dollars and eighty-five cents for sundries furnished for the use of the Senate during the present session, as per bills on file.

James M. Tomlinson.

SEC. 40. That James M. Tomlinson be allowed the sum of six dollars and twenty cents for stationery furnished for the use of the Senate and House and Representatives during the present session, as per bills on file.

Stewart & Bowen.

SEC. 41. That Stewart and Bowen be allowed the sum of four hundred and five dollars and fifty-two cents for stationery furnished for the use of the Senate and House of Representatives during the present session, as per accounts filed.

Werden & Chamberlain.

SEC. 42. That Werden & Chamberlain be allowed the sum of one hundred and eight dollars and thirty-four cents for stationery furnished for the use of the Senate and House of Representatives during the present session, as per accounts on file.

Barbour & Porter.

SEC. 43. That Barbour & Porter be allowed the sum of one hundred dollars for professional services rendered the State in the case of the State *v.* Churchman, as per account on file.

John B. Dillon.

SEC. 44. That John B. Dillon be allowed the sum

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of twenty-five dollars for services rendered as clerk to the House Committee on Banks at the present session of the General Assembly, as per certificate of the chairman of said committee on file.

John Ott.

SEC. 45. That John Ott be allowed the sum of twenty-five dollars and fifty cents for one arm chair and platform furnished the House of Representatives at the present session, as per bill on file.

Indianapolis Journal Co.

SEC. 46. That the Indianapolis Journal Company be allowed the sum of eight hundred and forty dollars for 175 copies Daily Journal furnished to the Senate each day, and 325 copies of the same furnished daily to the House of Representatives during the present session of the General Assembly, as per account on file.

Elder & Harkness.

SEC. 47. That Elder & Harkness be allowed the sum of forty-seven dollars and twenty-five cents for one hundred and seventy-five copies of the Locomotive per week furnished for the use of the Senate during the present session, as per account on file.

Julius Boettiker.

SEC. 48. That Jul. Boettiker be allowed the sum of ninety-three dollars and ninety-six cents for fifteen hundred and sixty-six copies of the Indiana Volksblatt, enveloped and stamped, for the use of the Senate during the present session, as per account on file.

Lawrence Kennedy.

SEC. 49. That Lawrence Kennedy be allowed the sum of two dollars per day for 31 days' labor in splitting wood and cleaning cellar of State House for reception of coal, &c.

Austin H. Brown.

SEC. 50. That Austin H. Brown be allowed the sum of eight hundred and sixty-two dollars for furnishing the members of the Senate and House of Representatives with the State Sentinel, as per order of the Legislature, during the present session of the General Assembly, as per account on file.

Frederick S. Butten.

SEC. 51. That Frederick T. Butten be allowed the sum of twenty-five dollars for services rendered as special Prosecutor at the November term of the Boone Circuit Court for 1854, as per certificate of appointment and order on file.

Auditor and Treasurer—Governor—per cent.

SEC. 52. That inasmuch as new duties have been imposed upon the present Executive in relation to the selection of swamp lands, the surrendering of certificates of entries made prior to the entries at the land offices by the State authorities, his personal attendance at Washington for the purpose of obtaining the money due this fund, correspondence thereon, the making of patents, &c., therefore, the Auditor and Treasurer of State be and hereby are, authorized to allow to Governor Wright out of the swamp land fund of this State, the sum of

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sixteen cents for each patent issued for said lands; and when the amount shall be ascertained, a warrant shall be issued for this amount to him, payable out of the said fund.

Appropriation for attorneys.

SEC. 53. That the sum of four thousand dollars be, and the same is hereby appropriated, for the purpose of paying the fees of attorneys who have been employed by the Governor, Superintendent of Public Instruction, and Executive offices [Officers], during the last two years to attend to suits on behalf of the State; and the Governor, Auditor, and Treasurer of State, are hereby directed to investigate and determine the amount that is due to such persons, and the amount certified to by such officers to be just and due, shall be paid upon warrant of the Auditor of State; *Provided*, That the Governor, Auditor, and Treasurer of State, shall require satisfactory evidence of the amount of the services rendered, and that it is expressly understood, that the sum of four thousand dollars shall not be paid, unless such officers shall be satisfied that that sum is required to discharge the amount found to be just and proper.

A. B. Carleton.

SEC. 54. That A. B. Carleton be allowed for services rendered as special prosecutor under appointment of Court at the November term of the Monroe Circuit Court, 1854, the sum of twenty-five dollars.

Chapman & Barney.

SEC. 55. That Chapman & Barney be allowed the sum of seven hundred and twenty-nine dollars and ninety-six cents, for furnishing each member of the General Assembly with three copies per day of the Daily Evening Republican, and for nine hundred and forty-eight copies of the Weekly Republican, as per bill on file.

Foote & Rice.

SEC. 56. That Foote & Rice be allowed the sum of four dollars and twelve cents for eleven spittoons furnished for the use of the House of Representatives, in the year 1851, as per account on file.

E. W. H. Ellis, John Hunt, and James R. Slack.

SEC. 57. That E. W. H. Ellis, John Hunt, and James R. Slack be each allowed the sum of one hundred dollars for services as committee of Senate and House in examining the securities and other matters connected with the Free Banks of Indiana, as per account on file.

Wm. H. Churchman.

SEC. 58. That William H. Churchman be allowed the sum of four hundred and thirty dollars, expenses by him incurred in defending a suit prosecuted against him by the State, which said suit was unfounded and oppressive, as per resolution of the House on file.

Henry N. Logan.

SEC. 59. That Henry N. Logan be allowed the sum of one hundred and forty-five dollars for services and expenses in arresting George Miller, under a requisition

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from the Governor, and bringing him from the State of Ohio and delivering him to the proper authorities of the State of Indiana, as per documents on file.

Harry Perry.

SEC. 60. That Harry Perry be allowed the sum of seventy-five dollars for services rendered in taking care of and attending to the State House grounds.

John Lanaham.

SEC. 61. That John Lanaham be allowed the sum of three dollars per day for services rendered in keeping and taking care of the State Library rooms, occupied by committees, and attending to other rooms, and House, and grounds.

E. D. Logan.

SEC. 62. That E. D. Logan be allowed the sum of seventy-nine dollars and fifty cents for money by him expended in having arrested and convicted Langford and Barrett, for horse-stealing, who are now in the State Prison.

Chas. Woodward.

SEC. 63. That Charles Woodward be allowed and paid the sum of one hundred and sixteen dollars for additional services in the distribution of the Laws and Journals of the last session of the Legislature.

Joseph Rupple.

SEC. 64. That Joseph Rupple be allowed the sum of two hundred dollars for indexing the Revised Statutes of 1852, in German.

C. G. Warner, A. Elkins, M. Dew.

SEC. 65. That C. G. Warner, A. Elkins and M. Dew be each allowed the sum of nine dollars for 3 days' services in preparing the Hall of the House for the reception of the General Assembly, as per bill filed.

Delos Root.

SEC. 66. That Delos Root be allowed the sum of thirteen dollars and sixty-eight cents for spittoons, ashpans, &c., furnished the General Assembly during the present session, as per bill filed.

Allen May.

SEC. 67. That Allen May, late Agent of State, be allowed the sum of one hundred and fifty dollars for services rendered in making copies of the Stock Register and Bond Ledger, for the purpose of correcting discrepancies between the books of the Agent and Auditor of State.

David Kilgore, Speaker of the House.

SEC. 68. That David Kilgore, Speaker of the House of Representatives, be allowed the sum of ten dollars for postage, by him paid upon communications addressed to him as such Speaker.

A. P. Willard, President of the Senate.

SEC. 69. That A. P. Willard, President of the Senate, be allowed the sum of ten dollars, for postage, by him paid upon communications addressed to him as such President.

Stewart & Bowen

SEC. 70. That Stewart & Bowen be allowed the sum of thirty-five dollars for stationery furnished for the use of the House of Representatives during the present session, as per bill on file.

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W. Y. Wiley. SEC. 71. That William Y. Wiley be allowed the sum of eighteen dollars for thirty-six volumes of the Debates of Constitutional Convention, purchased by the doorkeeper as per resolution of the House of Representatives.

J. D. Defrees. SEC. 72. That John D. Defrees be allowed the sum of one hundred dollars for one hundred volumes of Constitutional Debates, purchased by the doorkeeper as per resolution of the House.

Sheets & Braden. SEC. 73. That Sheets & Braden be allowed the sum of one hundred and ninety-three dollars for services rendered in the distribution of the Revised Statutes of 1852, over and above the services to which they were holden by the terms of their contract.

Volmer & Co. SEC. 74. That Volmer & Vonnegut be allowed the sum of ninety-five cents for mallet and chisel furnished the House of Representatives, as per bill on file.

E. H. Barry. SEC. 75. That E. H. Barny [Barry], clerk of the House and Senate committees on temperance, be allowed three dollars per day during the time he was employed by said committees, to be certified by the chairman of the temperance committee of the House.

Stewart & Bowen SEC. 76. That Stewart & Bowen be allowed the sum of twenty dollars and seventy cents for stationery furnished for the use of the Senate.

H. A. Fletcher. SEC. 77. That H. A. Fletcher be allowed the sum of four dollars and fifteen cents for stationery furnished for use of the Senate.

J. M. Talbott. SEC. 78. That J. M. Talbott & Co. be allowed the sum of three dollars for stationery furnished for use of the Senate.

Craighead & Browning. SEC. 79. That Craighead & Browning be allowed the sum of nineteen dollars and sixty-one cents for stationery furnished for use of the Senate.

A. Graydon & Son. SEC. 80. That A. Graydon & Son be allowed the sum of thirty-five cents for stationery furnished for use of the Senate.

W. A. Porter. SEC. 81. That William A. Porter be allowed the sum of twenty-five dollars for services as Prosecuting Attorney of 2d Judicial Circuit.

C. G. Warner. SEC. 82. That Charles G. Warner be allowed the sum of one hundred and thirteen dollars for expenses attending and services rendered in the Huntington county contested election.

Joseph Wiley and others. SEC. 83. That Joseph Wiley, Joseph Cheesborough, Samuel Mahon, S. J. Johnson, W. Norton, John Roche, Wm. C. Smith, and Samuel Milligan be each allowed the sum of thirty-three dollars for mileage and attend-

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ance as witnesses for the Huntington county contested [election] case.

J. D. Fisher and J. Lewis.

SEC. 84. That John D. Fisher and Jonathan Lewis be each allowed the sum of thirty-five dollars and sixty cents for mileage and attendance as witnesses in the Huntington county contested election.

M. Miller.

SEC. 85. That Michael Miller be allowed the sum of thirty dollars for mileage and attendance as witness in the Huntington county contested election.

Bowen Hale.

SEC. 86. That Bowen Hale be allowed the sum of thirty-three dollars and twenty-five cents for mileage and attendance in the Huntington county contested election.

D. D. Jones.

SEC. 87. That Daniel D. Jones be allowed the sum of twenty dollars for services for prosecuting a State case by order of the Judge of the fourth judicial circuit.

W. B. Taylor.

SEC. 88. That Wm. B. Taylor be allowed the sum of sixteen dollars for cleaning up and opening the Senate Chamber, and services as doorkeeper.

A. H. Brown.

SEC. 89. That Austin H. Brown be allowed the sum of one hundred and four dollars for Debates of the Constitutional Convention, furnished by order of the Senate.

Heirs of W. Sill.

SEC. 90. That the heirs of Wm. Sill, deceased, be allowed the sum of three thousand dollars for work, labor and materials furnished for use of the Wabash and Erie canal, at the mouth of Wea creek, Tippecanoe county.

Wm. T. Otto and John S. Davis.

SEC. 91. That William T. Otto and John S. Davis be allowed the sum of three hundred dollars for professional services rendered at the request of the Warden of the State Prison, in thirty cases on habeas corpus, in the Floyd, Clark, and Lawrence circuit courts.

R. A. Riley.

SEC. 92. The Judges of the Supreme Court are hereby required to make such allowance to Reuben A. Riley, late Prosecuting Attorney in the fifth judicial circuit, as they may think just and right, for causes submitted and briefs filed by him in the Supreme Court, while he was such prosecuting attorney, wherein the State was a party, to be audited and paid as other appropriations.

G. W. Chapman.

SEC. 93. That there be allowed to Geo. W. Chapman the sum of thirty-eight dollars for taking depositions, &c., in the contested seat in the counties of Huntington and Wells.

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## CHAPTER III.

AN ACT to provide for the election, fixing the compensation, and prescribing the duties of Attorney General of the State of Indiana.

[APPROVED FEBRUARY 21, 1855.]

Elected by the General Assembly.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there be elected by joint ballot of both Houses of the present General Assembly, an Attorney General for the State of Indiana, who shall hold his office for and during the term of two years from and after his election.

Election by the people.

SEC. 2. At the first annual election in October, immediately preceding the expiration of the first term of said office, and every two years thereafter, such officer shall be elected by the qualified voters of the State, according to the laws regulating the General Elections thereof.

Commissioned by Governor—file bond, &c.

SEC. 3. Such officer shall be commissioned by the Governor, and before entering upon the discharge of the duties of his office he shall take and subscribe an oath of office, to be administered to him in the usual form by the Secretary of State, which oath shall be deposited in the office of said Secretary. He shall, also, previous to entering upon the duties of said office, file with the Secretary of State, to be approved by him, his bond, in the penal sum of five thousand dollars, payable to the State of Indiana, and conditioned for the faithful discharge of his duties as such Attorney General.

Duties of Attorney General.

SEC. 4. Such Attorney General shall prosecute and defend all suits that may be instituted by or against the State of Indiana, the prosecuting or defending of which is not already provided by law, whenever notified ten days of the pendency thereof by the clerk of the Court in which such suits are pending, and whenever required by the Governor, or a majority of the officers of State, in writing, to be furnished him within a reasonable time for the purposes therein contemplated.

Not required to exhibit his authority.

SEC. 5. Such Attorney General shall not in any case be required to exhibit to any Court his authority for appearing in and conducting the prosecution or defense of any such suit, unless his authority be denied under oath, in which case his commission shall be all the evidence required.

To whom he shall furnish a written opinion.

SEC. 6. Whenever required so to do by any officer of State, such Attorney General shall furnish the appli-

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cant a written opinion touching any point of law concerning the official duties of such officer, and to either branch of the General Assembly, when requested so to do by a resolution thereof asking an opinion concerning the validity of an existing or proposed law, or conflicts thereof.

Compensation.

SEC. 7. Such Attorney General shall receive for his compensation the sum of one thousand dollars per annum, to be audited and paid quarterly out of the State Treasury.

Emergency.

SEC. 8. As it is contemplated by the provisions of this act to elect an Attorney General at the present session of the General Assembly, an emergency for the immediate taking effect of this act is hereby declared to exist, and the same shall be in force from and after its passage.

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## CHAPTER IV.

AN ACT to authorize the Auditor or other officer of State to retain so much of the interest on the stocks of any bank as may be sufficient so pay its taxes, and to indemnify the State againss loss of any sum due by any bank to the State.

[APPROVED JANUARY 26, 1855.]

Auditor of State authorized to retain interest on stocks or bonds, and pay the same to the proper officer.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Auditor of State, or other officer, in whose hands such bonds or stocks may be, is hereby authorized and directed to retain so much of the interest that has accrued, or may accrue, upon any stocks or bonds deposited with him by any person, or association of persons, under the "act to authorize and regulate general banking," as may be sufficient to discharge all taxes now due, or which may hereafter become due, by any bank within this State, and to pay the same over to the proper receiving officer.

County Auditor to report to the Auditor of State all taxes due by any bank within his county.

SEC. 2. Each County Auditor is hereby required to report to the Auditor of State all taxes that may be now due by any bank or banks organized under the said act within his county, and hereafter in the month of November in every year, to report to the said Auditor of State all taxes that may be then due by such bank or banks; and if such bonds or stocks should not be in the charge of the Auditor of State, then such Auditor shall transfer such reports to the officer of State in whose hands such bonds or stocks may be.



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Auditor of State further directed to retain interest to afford security to the State.

SEC. 3. And the said Auditor of State, or other officer in whose hands such bonds or stocks may be, is further directed to retain so much of such accrued or accruing interest on the bonds or stocks of any such bank as may be necessary to afford a complete and ample security to the State for any money deposited in such bank by any officer of State, or for any other debt due to the State by such bank.

Emergency.

SEC. 4. Whereas the taxes for the year 1854, assessed against several of the banks organized under the act aforesaid, remain unpaid, and as the interest which has accrued upon the bonds or stocks deposited by such banks may at once be withdrawn, leaving the State and counties without remedy, it is hereby declared that an emergency exists for an immediate taking effect of this act, therefore this act shall be in force from and after its passage.

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## CHAPTER V.

AN ACT to provide for the erection and repair of Bridges, and to repeal an act, entitled "An act to provide for the erection and repair of Bridges," approved May 12, 1852.

[APPROVED MARCH 3, 1855.]

When commissioners may cause a bridge to be erected.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever in the opinion of the County Commissioners the public convenience shall require that a bridge should be built over any water course, they shall cause surveys and estimates therefor to be made, and direct the same to be erected.

The board may unite two or more districts, if other districts are interested.

SEC. 2. If the estimate therefor shall exceed the ability of the road district in which such bridge is to be built, by the application of its ordinary road work and tax to perform, the board may add thereto any other district or districts which may be interested in the work, and shall cause the supervisors of such districts to be notified thereof, and when such supervisors shall receive such notice, they shall forthwith call out all the persons liable to work on highways in their respective districts, and require them to erect such bridge.

County board shall receive and appropriate all donations for bridges. May

SEC. 3. Such board shall receive and appropriate all donations for the erection and repair of bridges; they may also aid the same, when of general importance, by

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advances from the county treasury, and shall make such regulations in reference to payments and kinds of bridges as to them shall seem proper: *Provided, however*, That if the Board of Commissioners of any such county shall not deem any such bridge of sufficient importance to make an appropriation from the county treasury for the erection or repair thereof, the trustees of any township in which such bridge is situate, may appropriate any part of the road tax fund in the township treasury for that purpose, if they shall deem it right and expedient so to do.

aid the same out of county treasury.

SEC. 4. For the erection of any such bridge the said board may appoint one or more discreet persons as superintendents thereof.

Board may appoint Superintendents.

SEC. 5. Such superintendents may be allowed a suitable compensation for their services, and shall take an oath faithfully to discharge their duties as such.

Compensation of Superintendent. Shall take oath.

SEC. 6. Such superintendents, after having given thirty days' notice thereof, by posting up notices in three public places of the township in which such bridge is to be erected, or by publication in a newspaper of such county, shall receive sealed proposals for the erection of such bridge or bridges, shall let the same to the lowest responsible bidder, and shall require the constructor to give bond and surety for the due performance of his contract.

Superintendent to receive proposals for erection of bridges after thirty days' notice.

SEC. 7. Whenever the stream over which any such bridge is to be erected is the boundary between two counties, upon application therefor to the Board of Commissioners of either county, such board may make an appropriation from the treasury of such county therefor, to be expended as provided in case of bridges within such county; and such board shall cause notice thereof to be given the Board of Commissioners of the other county interested, and whenever it is ascertained that the commissioners of both counties have made an appropriation, the erection of such bridge shall be let out under the direction of the Board of Commissioners of the county where such application is first made, as provided for in the erection of other bridges, but the appropriation made shall be equal in both counties, and payments to the contractor shall be made equally by both counties.

When a bridge is to be erected between two counties, it shall be let under the direction of commissioner of the county where application was first made.

SEC. 8. Such board may authorize any person to build any such bridge, and to charge toll thereon in payment, but they shall reserve the right to purchase such bridge by paying the sum expended in its erection with ten per centum thereon, but in all cases the toll shall be regulated by such board.

County board may authorize the building of such bridge, and charge toll.

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Board of Commissioners may charge toll on any bridge in the county to pay cost.

SEC. 9. The Board of Commissioners may charge toll on any bridge erected in such county to pay the cost of erecting the same; but in no case shall such tolls be continued after the sum expended in such bridge shall have been derived from such toll.

Co. Commissioners may purchase any toll bridge.

SEC. 10. The Board of County Commissioners may, whenever they shall deem it proper and for the public good, purchase any toll bridge, or buy any private interest therein, and order the same to be paid for from the county treasury.

Co. Commissioners to keep bridges in good repair.

SEC. 11. The Board of Commissioners of such county shall cause all bridges therein to be kept in repair, and shall cause the supervisor of the proper road district to keep in a conspicuous place at each end of any bridge in his district, whose chord is not less than twenty-five feet, the following notice in large English characters: "One dollar fine for riding or driving on this bridge faster than a walk." And if any person shall ride or drive over any such bridge faster than a walk, for any such offense he shall forfeit and pay one dollar, to be recovered by the proper supervisor before any justice of the peace of the proper county, which shall be applied to the repairs of such bridge.

Persons forfeit treble damages.

SEC. 12. If any person shall wilfully injure any such bridge, shall, for every such offense, forfeit treble the damages legally ascertained, to be recovered by the supervisor as provided in the preceding section.

Co. Commissioners may cause bridges and grades to be repaired, &c.

SEC. 13. Whenever any bridge company has abandoned, or may abandon, any bridge, or when the right to take toll has expired, or may expire, by limitation of the charter thereof, it shall be lawful for the County Commissioners, in which such bridge may be situate, to require the same, and the grades leading thereto, to be repaired, if they shall deem that the public good requires it, and for that purpose shall possess all the powers that are given by this act to the County Commissioners for building and repairing of bridges. And the said Board of Commissioners may cause toll to be charged on any such bridge or bridges as in other cases; or such commissioners may, at their discretion authorize the bridge company whose charter or right to take toll has expired, to repair such bridge and grade, and take such rates of toll as such commissioners may from time to time fix for that purpose.

Persons exempt from paying toll.

SEC. 14. All persons going to or returning from any election, place of religious worship, or attending a funeral, shall be exempt from paying toll for crossing any of the toll bridges contemplated in this act.

SEC. 15. That the act, entitled "An act to provide

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for the erection and repair of bridges," approved May 22d, 1852, be, and the same is hereby, repealed, but such repeal shall not affect any action instituted or pending under the provisions of said act.

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## CHAPTER VI.

AN ACT to provide for the issuing certificates in cases of the casual destruction of outstanding State Bonds, and of duplicates in cases of the casual destruction of State certificates of stock.

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever it shall satisfactorily appear, on due proof, to the Governor, Auditor, and Treasurer of State, that any outstanding bond of this State (the bonds issued under the original bank charter excepted) have been casually destroyed, they may authorize the issue to the lawful owner of such bond certificates in the manner specified in the act, entitled "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," approved January 19th, 1846, and in the act supplementary to the same, approved January 27th, 1847, which certificates shall express upon their face that they have been issued in exchange for a certain bond (describing it), alleged by the payee of such certificate to have been casually destroyed. But no such certificate shall be issued until all and every of the requirements set out in the subsequent sections of this act shall be fully complied with. Certificates issued where bonds have been destroyed.

SEC. 2. Whenever it shall satisfactorily appear to the Governor, Auditor, and Treasurer of State, that any of the bonds issued under the original bank charter, or any certificate of state stock issued by the State, and payable out of the revenues of the State, shall have been, while outstanding, casually destroyed, they may authorize the issue to the lawful owner of such destroyed bond or certificate, a duplicate bond or certificate corresponding in date, numbers, amounts, and in terms with the bond or certificate so destroyed, but expressing on its face that the same is a duplicate bond or duplicate certificate. But no such duplicate shall be issued until all and every of the requirements set out in the subsequent sections of this act shall have been fully complied with. Duplicate bond may be issued.

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SEC. 3. Every applicant for such certificates or duplicates shall file with the said officers of State—

Applicants to file statement under oath.

1st. A statement, on oath, by such applicant showing the time, place, and all other circumstances attending the destruction of such bond or certificate, with its number, date, amount, the rate of interest it bears, the time to which interest, if any, has been paid, in whose favor it was issued, when made payable, together with every other particular relating to it within the knowledge of the applicant, that the bond or certificate was wholly owned by him, that it was not insured, and that he has not received, nor is he entitled to receive, any sum on account of any insurance on such bond or certificate.

2d. Such other and satisfactory proof by one or more disinterested witnesses, as may be necessary to show to said officers of State that the bond so described in the statement of such applicant had been in existence, and that at the time of the destruction the applicant was the owner thereof.

3d. An instrument in writing, to be signed by the applicant with three sureties, residents of the United States, one of whom shall reside in this State, reciting the particulars hereinbefore required to be stated, and the issuing of such certificates or duplicate (describing them) by which instrument such applicant and his sureties shall jointly and severally agree to pay any person or persons who may establish a valid claim to the bond or certificate so alleged to be casually destroyed, the full value thereof on demand, with interest until paid, and also to pay to the State of Indiana any sum which shall appear to have been erroneously paid to such claimant pursuant to the said application, with interest until paid, and also to indemnify and save harmless the said State against all loss and damage that may accrue by reason of the issuing of such certificates or such duplicate; such instrument to be executed in the presence of a Judge of a United States Court, or of a Supreme or Superior Court of any State, by whom the sufficiency of each of the three sureties in treble the amount claimed must be certified.

4th. A copy of a public advertisement of the casual destruction of such bond or certificate, specifying the time and place at which application will be made for new certificates or duplicate, made by the applicant in a newspaper published at or near the place of such casual destruction, accompanied by the affidavit of the printer or publisher of the same, that said advertisement had been inserted in the said paper for six consecutive weeks.

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SEC. 4. Such statement and other papers shall be carefully filed in the Treasury of State, and the Governor shall report to the General Assembly next after the issuing of such certificates and duplicates, the number and amount, and the names of the persons to whom they have been so issued.

Statement and other papers to be filed.
Governor to report to General Assembly.

SEC. 5. Nothing in this act contained shall be so construed as to contravene any of the provisions of the fifteenth section of an act approved January 27th, 1846, and entitled "An act supplementary to an act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," approved January 19th, 1846, nor of any of the other provisions of said act, nor of the act to which it is supplementary.

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## CHAPTER VII.

AN ACT to amend an act to authorize and regulate the business of General Banking.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act, entitled "An act to authorize and regulate the business of General Banking, approved May 28th, 1852, which act is comprised in the following words, to-wit:

An Act to authorize and regulate the business of General Banking, approved May 28th, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it is hereby made the duty of the Auditor of State, on application of any person, or association of persons, wishing to organize under this act, to cause to be engraved and printed in the best manner to guard against counterfeiting, such quantity [quality] of circulating notes, in the similitude of bank notes, in blank, of the different denominations hereinafter authorized under this [act,] as may from time to time be needed to meet the demands of those organizations for the purposes of banking.

Auditor of State to cause blank notes to be engraved and printed.

SEC. 2. Nothing herein contained shall be so construed as to prevent any banker, or banking association, from procuring their own plates, dies, and other materials for engraving and printing blank notes, and furnishing them to the Auditor, and leaving them ever after in his custody and control, to be used and disposed

Banker, &c., may furnish plates to Auditor.

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of as though such Auditor had himself procured them under the preceding section.

Notes to be for sums of from one to five hundred dollars. No intermediate notes between five and ten, ten and twenty, &c.

SEC. 3. Such bank notes in blank, so procured or placed in the hands of the Auditor as aforesaid, shall be of the denominations usually issued by banks, from [one] dollar to five hundred dollars; but such notes shall not be of any intermediate number between five and ten dollars, ten and twenty, twenty and fifty, or fifty and one hundred dollars:

Proviso.

*Provided, however*, No bank under this act shall be authorized to receive or pay out any note or bill for a less denomination than five dollars, issued by any bank or other corporation out of this State; nor shall such banks be authorized to issue bills for circulation of less denomination than five dollars, to an amount exceeding one-fourth of their whole issue.

Notes countersigned, &c., by Auditor.

SEC. 4. Such blank circulating notes shall be countersigned by such Auditor, and numbered and registered in proper books, to be kept for that purpose in his office and under his direction, by such persons as the Auditor shall appoint, so that each denomination of such circulating notes shall be of the same similitude, and all bear the uniform signature of such Auditor and Register.

Association by transferring stock to Auditor shall receive an equal amount of notes.

SEC. 5. Whenever any person, or association of persons, formed for the purpose of banking under this act, shall legally transfer to the Auditor any portion of the stocks or bonds hereinafter specified, such person, or association of persons, shall be entitled to receive from the Auditor an equal amount of such circulating notes, of different denominations, registered and countersigned as aforesaid, to be issued by them in the usual course of banking business as money.

Stocks—what to consist of.

SEC. 6. Such stocks shall consist of any portion of the public debt now created, or hereinafter [hereafter] to be created by the United States or by this State, and chargeable upon the State Treasury, or by such other States of the Union as pay interest semi-annually, or at any less period, on their public debt; but such public debt shall, in all cases, except as to Indiana stocks, be, or be made to be, equal to a stock producing six per cent. per annum, and the public debt of this State, so deposited, shall [be,] or be made to be, equal to a stock producing five per cent. per annum; and it shall not be lawful for the Auditor to take any stock at a rate above its par value, nor above its market value:

Proviso.

*Provided*, That whenever any State, whose stock is pledged, in whole or in part, for the redemption of its circulation, shall fail or neglect to pay interest on such bonds or stocks semi-annually, or at any less period, then such association or person shall be required to withdraw the

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said stocks so failing to pay interest, and to substitute for the same the stocks of interest paying States, or else surrender an amount of its notes equal to the amount of stocks so withdrawn. And if such association or person shall neglect or refuse, for the space of thirty days, so to do, then, and in that case, it shall be the duty of the Auditor of State to wind up the bank of said person or association as provided elsewhere in this act.

Notes after being made payable on demand, may be circulated and used as money.

SEC. 7. Such person, or association of persons, are hereby authorized, after having executed and signed such circulating notes, in the manner required by law, to make them obligatory promissory notes, payable on demand at the place of business, within this State, of such person or association, to loan and circulate the same as money, according to the ordinary course of banking business, as regulated by the laws and usages of this State.

Bank failing to redeem its notes, holder may have them protested; Auditor shall give notice to bank to pay note; still failing, Auditor to give notice that he will apply stocks to the payment of notes, &c.

SEC. 8. In case the maker or makers of any such circulating notes, countersigned and registered as aforesaid, shall at any time hereafter, on lawful demand, at the place of business specified in such note, during the usual hours of business, fail or refuse to redeem such note, in the lawful money of the United States, the holder of such notes, making such demand, may cause the same to be protested for non-payment, by a notary public, in the usual manner; and the Auditor, on receiving and filing in his office such protest, shall forthwith give written notice to the maker or makers of such note to pay the same; and if he or they shall omit to do so for thirty days after such notice, the Auditor shall immediately (unless he shall be satisfied that there is a good and legal defense against the payment of such note or notes) give notice in one of the newspapers published in Indianapolis, that all the circulating notes issued by such person or association will be redeemed out of the stocks held by him in trust for that purpose; and it shall be lawful for the Auditor to apply the said trust funds belonging to the maker or makers of such protested notes, to the payment and redemption of such notes, with costs of protests, and to adopt such measures for the payment of all such circulating notes, put in circulation by the maker or makers of such protested notes, pursuant to the provisions of this act, as will, in his opinion, most effectually prevent loss to the holders thereof.

Auditor may give power of attorney to receive dividends, &c., on stock deposited with him. When power may be revoked.

SEC. 9. The Auditor may give any person or association so transferring stock, in pursuance of the provisions of this act, powers of attorney to receive interest or dividends thereon, which such person or association may receive and apply to their own use; but such pow-

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May exchange stocks for notes, &c.

ers may be revoked upon such person or association failing to redeem their circulating notes so issued, or whenever, in the opinion of the Auditor, the principal of such stock shall become an insufficient security; said Auditor, also, at the instance of the owners of such stock so transferred in trust as aforesaid, may, in his discretion, change or transfer the same for other stocks of the same kind specified above in this act; or may re-transfer the said stocks, or any part thereof, upon receiving and cancelling an equal amount of such circulating notes, delivered by him to such person or association in such manner that the circulating notes shall always be secure in full by such stocks, and shall not be reduced or withdrawn, as aforesaid, below the value of fifty thousand dollars of the stocks of any person or association so transferred as aforesaid.

Notes—how to be stamped.

SEC. 10. The bills or notes so to be countersigned, and the payment of which shall be so secured as aforesaid, shall be stamped on their face "Secured by the Pledge of Public Stocks."

Bank failing as promised in section 8, Auditor may sell stocks at public auction.

SEC. 11. In case such person or association of persons, shall fail or refuse to pay such bills or notes on demand, in the manner specified in the eighth section of this act, the Auditor, after thirty days' notice therein mentioned, may proceed to sell at public auction the public stocks so pledged, and out of the proceeds of such sale shall pay and cancel the bills or notes, default in paying which shall be made in the city of New York, unless the banker or banking association give to the Auditor written consent, duly authenticated, that such stocks may be sold at Indianapolis.

State not pledged for payment of notes further than securities pledged with Auditor. Where banking may be carried on.

SEC. 12. Nothing in this act contained shall be considered as implying any pledge on the part of the State for the payment of said bills or notes beyond the proper application of the securities pledged with the Auditor for their redemption; nor shall anything herein contained be construed to empower any person or association to conduct or carry on the business of banking at any other than the place of business of such individual banker or banking association, which place of business shall, in every instance be the same at which their small bank bills respectively are made payable.

Stocks held exclusively for redemption of notes till paid.

SEC. 13. Public stock to be deposited with the Auditor by any such person or association, shall be held by him exclusively for the redemption of the bills or notes of such person or association, put in circulation as money until the same are paid; and shall in no case be held for the benefit of any depositor, or other person

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having business with such banker or banking association, until after the issue of said bank is redeemed.

Plates, &c., kept by Auditor. To pay expenses of executing law, he may charge per cent.

SEC. 14. The plates, dies, and materials to be procured by the Auditor for the printing and making of the circulating notes provided for hereby, shall remain in his custody, and under his direction; and the expenses necessarily incurred in executing the provisions of this act, shall be audited and settled by the Auditor, and paid out of any moneys in the treasury not otherwise appropriated; and for the purpose of reimbursing the same, the said Auditor is hereby authorized and required to charge against and receive from such person or association applying for such circulating notes, such rate per cent. thereon, as may be sufficient for that purpose, and as may be just and reasonable.

Plates, &c. When and how destroyed.

SEC. 15. All plates, dies, and such like materials of, and peculiar to, any individual banker or banking association which shall have closed business, either by its own voluntary act, or by operation of law under the direction of the Auditor, shall be by such Auditor, in the presence of the Governor and Treasurer of State destroyed; and such destruction, specifying the articles so destroyed, shall be officially certified to by all the three aforesaid officers.

Auditor, &c., not to sign bills to exceed amount of stocks deposited.

SEC. 16. It shall not be lawful for the Auditor or other person to countersign bills or notes for any person or association of persons, to an amount in the aggregate exceeding the public stocks, at their value as provided in the sixth section of this act, deposited with the Auditor by such person or association; and any Auditor or other officer who shall violate the provisions of this section, shall, upon conviction, be punished in such manner as the criminal laws of the State may direct.

Penalty.

How offices of discount, &c., may be established.

SEC. 17. Any number of persons may establish offices of discount, deposit and circulation upon the terms and conditions, and subject to the liabilities prescribed in this act; but the aggregate amount of the capital stock of any such association shall not be less than fifty thousand dollars.

Certificate shall specify. Name and place of business. Amount of capital, &c. Names of shareholders, &c. Period of existence. Certificate filed with Secretary of State.

SEC. 18. Such persons, under their hands and seals, shall make a certificate which shall specify:

*First.* The name issued to distinguish such association, and to be used in its dealings.

*Second.* The place where the operations of discount and deposit of such association are to be carried on, designating the particular city, town, or village.

*Third.* The amount of the capital stock of such association, and the number of shares into which the same shall be divided.

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*Fourth.* The names and places of residences of the shareholders, and the number of shares held by each of them respectively.

*Fifth.* The period at which such association shall commence and terminate; which certificate shall be proved or acknowledged and recorded in the office of the clerk of the county where the office of such association shall be established, and a copy thereof filed in the office of the Secretary of State.

Certificate may be used as evidence.

SEC. 19. The certificate required by the last preceding section to be recorded and filed in the offices of the clerk of the county and Secretary of State, as aforesaid, or copies thereof duly certified by either of those officers, may be used as evidence in all Courts and places for and against any such association, and shall be *prima facie* evidence of the facts therein contained.

Banking powers.

SEC. 20. Such association shall have power to carry on the business of banking by discounting bills, notes, and other evidences of debt, by receiving deposits, by buying and selling gold and silver, bullion, foreign coins, and bills of exchange, in the manner specified in their articles of association for that purpose authorized by this act, by loaning money on personal security, and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as President of such association, and to appoint a Cashier, and such other officers and agents as their business may require, and to remove such president, cashier, officers, and agents at pleasure, and appoint others in their place. Such association shall be entitled to charge and receive for moneys loaned interest at a rate not exceeding six per centum per annum, but the same may, according to bank rules, be discounted and taken in advance out of the sum loaned.

Shares transferable. Articles of association not to be changed so as to impair rights, &c., of creditors. Association not to dissolve on account of death, &c., of shareholder. Transfer shall not release party from liability.

SEC. 21. The shares of said association shall be deemed personal property, and shall be transferable on the books of articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of prior shareholders; and no change shall be made in the articles of association by which the rights, remedies, or securities of its existing creditors shall be weakened or impaired. Such association shall not be dissolved by the death or insanity of any of the shareholders therein; nor shall any such transfer operate to release the party so transferring from the operation of section twenty-fifth of this act, making stockholders liable over and above their stock to an amount equal to such stock: *Provided*, That such individual liability of such

Proviso.

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stockholder so transferring, as aforesaid, shall not extend beyond the period of one year from the time such transfer shall have been reported to or otherwise filed in the office of the Auditor of State.

May increase capital stock. Persons holding shares for another, both liable.

SEC. 22. It shall be lawful for any association of persons organized under this act, by their articles of association, to provide for an increase of their capital and of the number of the associates from time to time, as they may think proper; and in case of any shares of stock held in the name of one person, but in whole or in part for the use and benefit, or as the property of another, both the person in whose name such stock is held, and the person for whose use it is so held, shall be subject to the operation of the twenty-fifth section of this act, making stockholders liable over and above their stock to an amount equal to such stock.

Contracts and bills to be signed by president, &c. Suits may be brought in his name—shall not abate on account of his death.

SEC. 23. Contracts made by such associations, and all notes and bills by them issued and put in circulation as money, shall be signed by the President, or Vice-President, and Cashier thereof; and all suits, actions, and proceedings, brought or prosecuted by or on behalf of such association, may be brought or prosecuted in the name of the president thereof; and no such suit, action, nor proceeding shall abate by reason of the death, removal from office, or resignation of such president, but may be continued and prosecuted according to such rules as the Courts of law may direct, in the name of his successor in office, who shall exercise the powers, enjoy the rights, and discharge the duties of his predecessor.

Suits may be brought against president—not to abate on account of death, &c. Judgment, how enforced.

SEC. 24. All persons having demands against any such association, may maintain action against the president thereof, which suits or actions shall not abate by reason of the death, resignation, or removal from office of such president, but may be continued and prosecuted to judgment against his successor; and all judgments and decrees obtained or rendered against such president for any debt or liability of such association, shall be enforced first against the joint property of the association, and which property shall be liable to be taken and sold by execution under any such judgment or decree.

Individual liability.

SEC. 25. Every shareholder of any such association shall be liable in his individual capacity for any contract, debt, or engagement of such association, to an amount over and above his stock equal to the amount of his shares of such stock.

Associations may hold real estate. Place of business. Security conveyed for debt. Purchased

SEC. 26. It shall be lawful for such association to purchase, hold, and convey real estate for the following purposes:

*First.* Such as shall be necessary for its immediate

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at sale, &c. Conveyances to whom made, and who may convey.

accommodation in the convenient transaction of its business; or,

*Second.* Such as shall be mortgaged to it in good faith by way of security for moneys due to such association; or,

*Third.* Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

*Fourth.* Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association. The said association shall not purchase, hold, or convey real estate in any other case or for any other purpose; and all conveyances of such real estate shall be made to the president, or such other officer as shall be indicated for that purpose in the articles of association; and which president, or officer, and his successors, from time to time may sell, assign, and convey the same free from any claim thereon against any of the shareholders, or any person claiming under them.

Annual statement—what to contain. Auditor shall have statement published.

SEC. 27. Such association shall, on the first Mondays of January and July, in every year after having commenced the business of banking, as prescribed by this act, make out and transmit to the Auditor, in the form to be provided by him, a full statement of the affairs of the association, verified by the oaths of the president or cashier, which statement shall contain:

*First.* The amount of capital stock, including that deposited with the Auditor, paid in according to the provisions of this act.

*Second.* The value of the real estate of the association as necessary to the transaction of business.

*Third.* The shares of stock held by such association, whether absolutely or as collateral security; specifying each kind and description of stock, and the number and value of the shares of each.

*Fourth.* The amount of debts due to the association, specifying such as are due from moneyed or other corporations or associations; and also specifying the amount secured by judgment, and the amount which ought to be included in the computation of losses.

*Fifth.* The amount of debts due by such association, specifying such as are payable on demand, and such as are due to moneyed or other corporations or associations.

*Sixth.* The amount of claims against the association not acknowledged by it as debts.

*Seventh.* The amount of notes, bills, or other evidences of debt issued by such association.

*Eighth.* The amount of the losses of the association

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specifying whether charged on its capital or profits since its last preceding statement, and of its dividends declared and made during the same period.

*Ninth.* The average amount in each month during the preceding six months of the debts due to and from the association, the average amount of specie possessed by the same during each month, and the amount of bills and notes issued by such association, and put in circulation as money, and outstanding against the association, on the first day of each of the preceding six months.

*Tenth.* The average amount in each month during the preceding six months due to the association from all the shareholders in the association; also the greatest amount due to the association in each of the said preceding six months from all the shareholders in such association.

*Eleventh.* The amount which the capital of the said association had been increased during the preceding six months, if there shall have been any increase of the said capital, and the names of any persons who may have become parties to the said articles of association, or may have withdrawn therefrom since their last reports.

It shall be the duty of the Auditor to cause the statement required to be made by this section to be published in a newspaper printed in the county where the place of business of such association is situated, and in some paper published in Indianapolis, the expense of which shall be paid by such association: *Provided*, That such private banker, or banking association, may select such paper, and make the contract for such publication. Proviso.

Association failing to make statement may be proceeded against and dissolved.

SEC. 28. If such association shall neglect to make out and transmit the statement required in the last preceding section, for one month beyond the period when the same is required to be made, or shall violate any of the provisions of this act, such association may be proceeded against and dissolved by the court, on application of the auditor, or any creditor thereof, in the same manner as any moneyed corporation may be proceeded against and dissolved.

If any part of capital is withdrawn, no dividends shall be made; if any are made, circuit court to make order for closing business.

SEC. 29. If any portion of the original capital of any such association shall be withdrawn, for any purpose whatever, whilst any debts of the association remain unsatisfied, no dividends or profits on the shares of the capital of the association shall thereafter be made, until the deficit of capital shall have been made good, either by subscription of the shareholders or out of the subsequently accruing profits of the association; and if it shall appear that any such dividends have been made, it shall be the duty of the circuit court of the proper

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county to make the necessary orders and decrees for closing the affairs of the association, and distributing its property and effects among its creditors and shareholders.

List of names of shareholders to be filed with county clerks and Auditor of State.

SEC. 30. The president and cashier of every association formed pursuant to the provisions of this act, shall at all times keep a true and correct list of the names of all the shareholders of such association, and shall file a copy of such list in the office of the clerk of the county where any office of such association may be located, and also in the office of the Auditor of State, on the first Mondays of January and July in every year.

No notes under $500 to be made payable at any other place than place of business.

SEC. 31. It shall not be lawful for any association formed under the provisions of this act to make any of its bills or notes of a denomination less than five hundred dollars, to be put in circulation as money, payable at any other place than at the office where the business of the association is carried on and conducted.

Repeal.

SEC. 32. The legislature may at any time alter or repeal this act.

Amount of specie to be kept on hand.

SEC. 33. No association of persons authorized to carry on the business of banking under this act, shall, at any time, for the space of twenty days, have on hand at their place of business less than twelve and a half per cent. in specie, on the amount of the bills or notes in circulation as money.

This act to be in force from 1st July, 1852.

SEC. 34. This act to be in force from and after the first day of July, one thousand eight hundred and fifty-two.

On proof that note is destroyed holder may recover.

SEC. 35. Whenever it is proven that any note or bill issued by any person or association authorized by this act, has been irrecoverably destroyed or lost, the person who may have been the holder thereof shall be entitled to recover the amount so lost or destroyed.

Penalty for making false entries, reports, &c.

SEC. 36. Every officer, agent, or clerk of such bank or association, who shall wilfully and knowingly subscribe, or make any false statement or false entries in the books of such person or association, or shall knowingly subscribe or exhibit false papers, with the intent to deceive any person authorized to examine as to the condition of such bank or association, or shall wilfully and knowingly subscribe or make false reports, shall be deemed guilty of felony, and shall be subjected to imprisonment at hard labor in the State Prison, for such term of years as the jury trying the case may think proper; and likewise any commissioner, examiner, master in chancery, or judge, wilfully and knowingly subscribing or making any false report, shall be deemed guilty of felony, and be subjected to like penalties.

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SEC. 37. No director shall either directly or indirectly borrow from said bank or association, on loan, discount, or any other mode, an amount larger than double the amount of stock owned and held by him in said company, except on bona fide bills of exchange, drawn payable out of this State.

Directors not to borrow more than double the amount of his stock, except on bills of exchange.

SEC. 38. No officer or stockholder, or other person connected with the management of the bank, shall act as notary public therefor: *Be and the same is hereby amended to read as follows:*

No stockholder of bank to act as notary therefor.

SEC. 2. Any number of persons not less than eleven, a majority of whom shall be resident citizens of this State, having in the opinion of the Governor, Secretary, and Treasurer of State, complied with the necessary provisions of this act, as hereinafter specified, may make application to the Auditor of State, who shall cause to be engraved and printed, in the best manner to guard against fraud and counterfeiting, such quality [quantity] of circulating notes in the similitude of bank notes, in blank, of the different denominations hereinafter authorized to be issued, as may from time to time be needed to meet the demands of those organizations, for the purpose of banking, as may correspond with the receipt of the Treasurer of State as hereinafter stated.

Not less than eleven persons, a majority of whom to be resident citizens of the State, may make application to Auditor of State.

SEC. 3. Nothing herein contained shall be so construed as to prevent any banking association from procuring their own plates, dies and other materials for engraving and printing blank notes, and furnishing them to the auditor.

Nothing to prevent banking association from procuring their own plates, dies, &c.

SEC. 4. Such bank notes, in blank, so procured or placed in the hands of the auditor, as aforesaid, shall be of the denominations usually issued by banks—from one dollar to five hundred dollars; but such notes shall not be of any intermediate number between five and ten dollars, ten and twenty, twenty and fifty, [fifty] and one hundred dollars: *Provided, however*, that no banking association, under this act, shall be authorized to issue bills for circulation of less denomination than five dollars, to an amount not exceeding one-twentieth of their whole issue. *Provided further*, that no bank under this act shall be authorized to receive or pay out any note or bill of less denomination than five dollars, issued by any bank or other corporation out of this State.

Of what denomination bank notes to be.

SEC. 5. Such blank circulating notes shall be countersigned by such auditor, and numbered and registered in proper books, to be kept for that purpose in his office and under his direction, by such persons as the auditor shall appoint, so that each denomination of such circu-

Notes to be countersigned by Auditor, numbered and registered.



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lating note shall all be of the same similitude, and all bear the uniform signature of such auditor and register.

Association transferring 110 dollars to Treasurer of State shall receive 100 dollars in notes from Auditor:

SEC. 6. Whenever any association of persons, formed under this act, shall legally transfer to the Treasurer of State fifty thousand dollars worth of stocks or bonds, such as hereinafter specified, such association of persons shall be entitled to receive from the said auditor, for every one hundred and ten dollars worth of stocks or bonds thus transferred and deposited, only one hundred dollars, in notes of different denominations, registered and countersigned as aforesaid, to be used by them in the usual course of banking business as money: *Provided*, that if all the persons composing such associations shall be *bona fide* residents of this State, and *bona fide* owners, in their own right, and not in trust or for the use or benefit of others, of the stocks or bonds transferred and deposited as aforesaid, then for every one hundred and ten dollars worth of stocks or bonds thus deposited, such association shall be entitled to receive only one hundred dollars in notes, as aforesaid; and, *provided further*, that the aggregate amount of bank circulation, under the provisions of this act, shall not exceed six million dollars; and, *provided further*, that no association under this act shall have a greater circulation of notes than two hundred thousand dollars. *Provided, further*, that the bank notes issued by any banking association shall be receivable in payment of any debt or liability due the banking association so issuing such bank notes, and the same rule shall prevail for one year after said transfer of said bank or other stock thereof to other individuals, for banking purposes, in regard to the debts and liabilities incurred either before or after such transfer.

Proviso, no association to have a circulation of notes more than $200,000. Bank notes of any banking association shall be receivable in payment of any debt, &c., due the banking association.

Stock—what to consist of:

SEC. 7. Such stocks shall consist of any portion of the public debt now created, or hereafter to be created, by the United States or by this State, and chargeable on the treasury, or such other states of the Union as pay interest semi-annually, or at any less period, on their public debt; but such public debt shall, in all cases, be, or be made to be, equal to a stock producing six per cent. per annum; and it shall not be lawful for the Treasurer to take any stock at a rate above its par value nor its market value: *Provided*, That whenever any State, whose stock is pledged, in whole or in part, for the redemption of its circulation, shall fail or neglect to pay interest on such bonds or stocks semi-annually, or at any less period than [then] such association shall be required to withdraw the said stocks so failing to pay interest, and to substitute

Proviso.

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for the same the stocks of interest paying States, or else surrender an amount of its notes equal to the amount of stocks so required to be withdrawn.

Notes to be circulated and used as money after being made payable on demand.

SEC. 8. Such association of persons are hereby authorized, after having executed and signed such circulating notes, in the manner required by law, to make them obligatory promissory notes, payable, on demand, at the place of business, as hereinafter specified, within this State, of such association, to loan and circulate the same as money, according to the ordinary course of banking business, as regulated by the laws and usages of this State.

Bank failing to redeem note, holder may have it protested. Auditor shall give notice to bank to pay note; still failing, Auditor to give notice that he will apply stocks to the payment of notes, &c.

SEC. 9. In case the makers of any such circulating notes, countersigned and registered as aforesaid, shall, at any time hereafter, on lawful demand, at the place of business specified in such note, during the usual hours of banking business, as hereinafter mentioned, fail or refuse to redeem such note or notes in the lawful money of the United States, the holder of such note or notes, making such demand, may cause the same to be protested for non-payment by a notary public, in the usual manner, and the Auditor, on receiving and filing in his office such protest, shall forthwith give written notice to the president, cashier, or any director of said association, who issued such notes, to pay the same, and if such association shall not immediately do so, the Auditor shall, without delay, (unless he shall be satisfied that there is a good and legal defense against the payment of such note or notes,) give notice in one of the newspapers published at Indianapolis, that all the circulating notes issued by such association will be redeemed out of the stocks held by him in trust for that purpose; and it shall be lawful for the Auditor to apply the said trust funds belonging to the makers of such protested notes to the payment and redemption of such notes, with costs of protest, and to adopt such measures for the payment of all such circulating notes, whether protested or not, put in circulation by the makers of such protested notes, pursuant to the provisions of this act, as will, in the opinion of the Governor, Treasurer, and Secretary of State, or a majority of them, most effectually prevent loss to the holders thereof: *Provided*, That all the notes presented for redemption at one time shall be included in a single protest: *Provided further*, That no preference in the payment shall be given to protested notes over non-protested.

Proviso—in payment no preference given to protested notes.

Auditor may give power of attorney to receive dividends, &c., on stocks deposited

SEC. 10. The Auditor shall give any association so transferring stock in pursuance of the provisions of this act, powers of attorney to receive interest or dividends

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with him—when power may be revoked. Auditor may exchange stocks for others of same kind or for notes.

thereon which such association may receive and apply to their own use; but such powers may be revoked upon such association failing to redeem the circulating notes so issued, or whenever in the opinion of the Auditor, Governor, Treasurer, and Secretary of State, or a majority of them, the principle of such stock shall become insufficient security; said Auditor, also, at the instance of the owners of such stock so transferred in trust, as aforesaid, may, in his discretion, change or transfer the same for other stock of the same kind, specified above in this act, or shall retransfer the said stocks, or any part thereof, upon receiving and cancelling an equal amount of such circulating notes delivered by him to such association, in such manner, that the circulating notes shall always be secure in full by such stocks, and shall not be reduced or withdrawn, as aforesaid, below the value of fifty thousand dollars' worth of stocks of any association.

Notes, how to be stamped.

SEC. 11. The bills or notes so to be countersigned, and the payment of which shall be so secured as aforesaid, shall be stamped on their face "secured by pledge of public stocks."

State not pledged for the payment of notes further than the securities pledged with the Treasurer. Where banking may be carried on.

SEC. 12. Nothing in this act contained shall be considered as implying any pledge on the part of the State for the payment of said bills or notes beyond the proper application of the securites pledged with the Treasurer for their redemption, nor shall anything herein contained be construed to empower any association to conduct or carry on the business of banking at any other than the place of business of such banking association, which place of business shall in every instance be the same at which their bank bills respectively are made payable.

Stocks to be held exclusively for the redemption of notes until they are paid.

SEC. 13. Public stock, to be deposited with the Treasurer by any such association, shall be held by him exclusively for the redemption of the bills or notes of such association, put in circulation as money, until the same are paid, and shall in no case be held for the benefit of any depositor or other person having business with such banking association, until after the issue of said bank is redeemed.

Plates, dies, &c., to be kept by Treasurer. To pay expenses of executing this law he may charge rate per centum fixed by law on notes.

SEC. 14. The plates, dies, and materials to be procured by the Auditor, or by any other person, for the printing and making of the circulating notes provided for hereby, shall be placed in the custody and under the directions of the Treasurer; and the expenses necessarily incurred in executing the provisions of this act, shall be audited and settled by the Auditor, and paid out of any moneys in the Treasury not otherwise appropriated, and for the purpose of reimbursing the same, the said

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Auditor is hereby authorized and required to charge against, and receive from, such association applying for such circulating notes, such rate per cent. therein [thereon], as may be sufficient for that purpose, or as may be fixed by that law [by law.]

Plates, dies, &c., when and in what manner to be destroyed.

SEC. 15. All plates, dies, and such like materials of, and peculiar to, any banking association, which shall have closed business, either by its own voluntary act or by operation of law, as prescribed in sections nine and fifty-two of this act, shall be in the presence of said Governor, Treasurer, Secretary, and Auditor of State, destroyed; and such destruction, specifying the articles so destroyed, shall be effectually certified to by all the four officially.

Auditor, &c., not to sign bills to exceed amount of stocks deposited. Penalty.

SEC. 16. It shall not be lawful for the Auditor or other offices [officers] to countersign bills or notes for any associations of persons formed under this Act, to an amount in the aggregate exceeding that contemplated in section six of this act; and any Auditor or other officer who shall violate the provisions of this act shall, upon conviction, be punished as hereinafter prescribed.

How offices of discount, &c., may be established.

SEC. 17. Any number of persons, not less than eleven, may associate to establish offices of discount, deposit, and circulation upon the terms and conditions, and subject to the liabilities prescribed in this act; but the amount of stocks or bonds transferred and deposited as aforesaid shall not be less in value in any case than fifty thousand dollars. *Provided, however*, That the provisions of this section shall not apply to the banks now in existence, respecting the number of stockholders.

Certificate shall specify the name, place of business.

SEC. 18. Such persons, under their hands and seals, shall make a certificate which shall specify:

*First.* The name assumed to distinguish such association, and to be used in its dealings.

*Second.* The place, which shall not contain less than one thousand inhabitants: *Provided, however*, This last condition shall not apply to any county seats where the operations of discount and deposit of such associations are to be carried on, designating the particular city, town, or village.

Proviso; amount of capital and number of shares; names of shareholders, &c.; period of existence; certificate to be recorded and a copy to be filed with Secretary of State.

*Third.* The amount of the capital stock of such association, and the number of shares into which the same shall be divided.

*Fourth.* The names and places of residence of the stockholders and the number of shares held by each of them respectively.

*Fifth.* The period at which such association shall commence and terminate; which certificate shall be proved or acknowledged, and recorded in the office of the clerk

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of the county where the office of such association shall be established, and a copy thereof filed in the office of the Secretary of State.

Certificates may be used as evidence.

SEC. 19. The certificate required by the last preceding section to be recorded and filed in the offices of the clerk of the county and Secretary of State, as aforesaid, or copies thereof, duly certified by either of those officers, may be used as evidence in all Courts and places, for and against any such association, and shall be *prima facie* evidence of the facts therein contained:

Banking powers.

SEC. 20. Such association shall have power to carry on the business of banking, by discounting bills, notes, and other evidences of debts, by receiving deposits, by buying and selling gold and silver bullion, foreign coins, and bills of exchange, in the manner specified in their articles of association, for the purposes authorized by this act, by loaning money on personal security, and by exercising such incidental powers as shall be necessary to carry on such business; to elect a board of directors, who shall have authority to elect one of their number as president of such association, and to appoint a cashier, and such other officers and agents as their business may require, and to remove such president, cashier, officers, and agents at pleasure, and appoint others in their places. Such association shall be entitled to charge and receive, for money loaned, interest at a rate not exceeding six per cent. per annum; but the same may, according to bank rules, be discounted and taken in advance out of the sum loaned; *Provided, however*, That such president and cashier shall be resident citizens of the county in which such association is, or is to be, located.

Shares transferable. Articles of association not to be changed so as to impair rights, &c., of creditors. Associations not to dissolve on account of death, &c., of shareholders. Transfer shall not release party from individual liability.

SEC. 21. The shares of said association shall be deemed personal property, and shall be transferrable on the books of the association, in such manner as may be agreed on in the articles of association; and every person becoming a shareholder by such transfer, shall, in proportion to his shares, succeed to all the rights and liabilities of prior shareholders; and no changes shall be made in the articles of association by which the rights, remedies, or security of its existing creditors shall be weakened or impaired. Such association shall not be dissolved by death or insanity of any of the shareholders therein; nor shall any such transfer operate to release the party so transferring from the operation of section twenty-five of this act, making stockholders liable over and above their stock to an amount equal to such stock: *Provided*, That such individual liability of such stockholder so transferring, as aforesaid, shall not extend beyond the period of one year from the time

Proviso.

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such transfer shall have been reported to, or otherwise filed in the office of the Treasurer of State.

May increase capital stocks. Persons holding shares for another both individually liable.

SEC. 22. It shall be lawful for any association of persons organized under this act, by their articles of association, to provide for an increase of their capital and number of associates from time to time as they may think proper; and in case of any shares of stock held in the name of one person, but in whole or in part for the use and benefit, or as the property of another, both the person in whose name such stock is held, and the person for whose use it is so held, shall be subject to the operation of the twenty-fifth section of this act, making stockholders liable over and above their stock to an amount equal to such stock.

All contracts and bills to be signed by president, &c. Suits may be brought in his name: shall not abate on account of his death, &c.

SEC. 23. Contracts made by such association, and all bills and notes by them issued and put in circulation as money, shall be signed by the President, or Vice-President, and Cashier thereof; and all suits, actions, and proceedings, brought or prosecuted by or on behalf of such association, may be brought or prosecuted in the name of the president thereof; and no suit, action, nor proceeding shall abate by reason of the death, removal from office, or resignation of such president, but may be continued and prosecuted according to such rules as the Courts of law may direct, in the name of his successor in office, who shall exercise the powers, enjoy the rights, and discharge the duties of his predecessors.

Suits may be brought against president: not to abate on account of his death, &c Judgments—how enforced.

SEC. 24. All persons having demands against any such association, may maintain actions against the president thereof; which suits or actions shall not abate by reason of the death, resignation, or removal from office of such president, but may be continued and prosecuted to judgment against his successors; and all judgments or decrees obtained or rendered against such president for any debt or liability of such association, shall be enforced first against the joint property of the association, and which property shall be liable to be taken and sold by execution under any judgment or decree.

Individual liability.

SEC. 25. Every shareholder of any such association shall be liable in his individual capacity for any contract, debt, or engagement of such association, to an amount over and above his stock equal to the amount of his shares of such stock.

Association may hold real estate. Place of business. For security. Conveyed for debt. Purchased at sale. Conveyances—to whom made, and who may convey.

SEC. 26. It shall be lawful for such association to purchase, hold, and convey real estate for the following purposes:

*First.* Such as shall be necessary for its immediate accommodation in the convenient transaction of its business; or,

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*Second.* Such as shall be mortgaged to it in good faith by way of security for moneys due to such association; or,

*Third.* Such as shall be conveyed to it, in satisfaction of debts previously contracted in the course of its dealings; or,

*Fourth.* Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association. The said association shall not purchase, hold, or convey real estate in any other case or for any other purpose; and all conveyances of such real estate shall be made to the president, or such other officer as shall be indicated for that purpose in the articles of association; and which president or officer, and his successors, from time to time may sell, assign, or convey the same, free from any claim thereon against it, by any shareholders, or any person claiming under them.

Annual statement, what to contain. Auditor shall have statement published.

SEC. 27. Such association shall, on the first Mondays of January and July of every year, after having commenced the business of banking, as prescribed by this act, make out and transmit to the auditor, in the form to be prescribed by him in full statement of the affairs of the association, the names, places and residences of each of the shareholders of such association, verified by the oaths of the president or cashier, which statement shall contain:

*First.* The amount of stock paid in according to the provisions of this act, and the amount of stocks or bonds, together with a description of such stocks or bonds, deposited and transferred as aforesaid, as security for the issues of such association; the then market value of said stocks, as near as the same can be ascertained; the date to which payment of interest has been made upon such bonds or stocks, and whether such interest has been paid to such banking association, or passed to their credit on the books of the auditor.

*Second.* The value of the real estate of the association, specifying what portion is occupied by the association as necessary to the transaction of business.

*Third.* The shares of stock held by such association, whether absolutely or as collateral security; specifying each kind and description of stock, and the number and value of the shares of each.

*Fourth.* The amount of debts due to the association, specifying such as are due from moneyed or other corporations or associations; and also specifying the amount secured by judgment, and the amount which ought to be included in the computation of losses.

*Fifth.* The amount of debts due by such association,

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specifying such as are payable on demand, and such as are due to moneyed or other corporations or associations.

*Sixth.* The amount of claims against the association not acknowledged by it as debts.

*Seventh.* The amount of notes, bills, or other evidences of debt issued by such association.

*Eighth.* The amount of the losses of the association, specifying whether charged on its capital or profits since its last preceding statement, and of its dividends made and declared during the same period.

*Ninth.* The average amount in each month during the preceding six months, of the debts to and from the association; the average amount of specie possessed by the same during each month, and the amount of bills and notes issued by such association and put in circulation as money, and outstanding against the association, on the first of each of the preceding six months.

*Tenth.* The average amount in each month, during the preceding six months, due to the association from all the shareholders in the association; also, the greatest amount due to the association in each of the said preceding six months, from all the shareholders in such association.

*Eleventh.* The amount which the capital of the said association had been increased during the preceding six months, if there shall have been any increase of the said capital, and the names of any persons who may have become parties to the said articles of association, or may have withdrawn therefrom since their last report.

It shall be the duty of the auditor to cause the statement required to be made by this section to be published in a newspaper printed in the county where the place of business of such association is situated, and in some paper published at Indianapolis, the expense of which shall be paid by such association: *Provided*, that such banking association may select such paper and make the contract for such publication. Proviso.

SEC. 28. If such association shall neglect to make out and transmit the statement required in the last preceding section, for one month beyond the time when the same is required to be made, the auditor shall forthwith proceed to close such association in the manner prescribed in section forty-nine of this act. Association failing to make statement, may be proceeded against and dissolved.

SEC. 29. A majority of all the stock of each of the banks to be established under this act, shall be owned at all times by resident citizens of this State; and before issuing to any association to be established under this act, any of its notes, the auditor shall ascertain to his A majority of all the stock to be owned at all times by resident citizens of this State. Where directors are to reside.

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satisfaction that a majority of such stock is so owned, and for that purpose shall be authorized to require the affidavit of one or more of such owners to that effect; and in every association formed under this act, there shall be at least five directors, a majority of whom shall be resident citizens of the county in which the bank is or is to be located.

If any part of the capital is withdrawn, no dividends shall be made; if any are made, auditor is to proceed against such bank, as provided in section 49 of this act.

SEC. 30. If any portion of the original capital of any such association shall be withdrawn, for any purpose whatever, whilst any debts of the association remain unsatisfied, no dividends or profits on the shares of the capital stock of the association shall thereafter be made, until the deficit of capital shall have been made good, either by subscription of the shareholders, or out of the subsequently accruing profits of the association; and if it shall appear that any such dividends have been made, it shall be the duty of the auditor to proceed against such bank, as contemplated in section forty-nine hereof.

List of names of shareholders to be filed with county clerk and Auditor of State.

SEC. 31. The president and cashier of every association formed pursuant to the provisions of this act, shall at all times keep a true record and correct list of the names of all the shareholders of such association, and shall file a copy of such list in the office of the clerk of the county where any office of such association may be located, and also in the office of the Auditor of State, every ninety days after the organization and going into effect of such association.

No notes under $500 to be made payable at any other place than place of business.

SEC. 32. It shall not be lawful for any association formed under the provisions of this act to make any of its bills or notes of a denomination less than five hundred dollars, to be put in circulation as money, payable at any other places than at the office where the business of the association is carried on and conducted.

Repeal.

SEC. 33. The legislature may, at any time, alter or repeal this act.

Notes of one bank organized under this act to be received by all the banks, and in payment of any debt.

SEC. 34. Every bank organized under the provisions of this act, or the one to which this is an amendment, which shall have accepted the provisions of this act, shall mutually accept the circulating notes of each other when offered or tendered by any person in payment of any debt or obligation.

On proof that note is destroyed holder may recover.

SEC. 35. Whenever it is proven that any note or bill issued by any association authorized by this act, has been irrecoverably destroyed or lost, the person who may have been the holder thereof shall be entitled to recover the amount so lost or destroyed.

Penalty for making false entries, reports, &c.

SEC. 36. Every officer, agent, or clerk of said association, who shall wilfully and knowingly subscribe, or make any false statements or false entries in the books

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of such association, or shall knowingly subscribe or exhibit false papers, with the intent to deceive any person authorized to examine as to the condition of such association, or shall wilfully or knowingly subscribe or make false reports, shall be deemed guilty of felony, and punished as prescribed in section fifty of this act.

Directors not to borrow more than double the amount of his stock, except on bill of exchange.

SEC. 37. No director shall, either directly or indirectly, borrow from said association, or loan, discount, or by any other mode, an amount larger than double the amount of stock owned or held by him in said association, except on *bona fide* bills of exchange, drawn payable out of this State.

No stockholder of bank to act as notary therefor.

SEC. 38. No stockholder in such banking association shall act as a notary public therefor.

Auditor and treasurer, or either of them, prohibited from becoming stockholders in any bank organized under this act.

SEC. 39. The Auditor and Treasurer of State, or either of them, are hereby strictly prohibited, during their several terms of office, from becoming, directly or indirectly, stockholders in any bank organized under this act, from being interested in any manner in any such bank, from borrowing or indorsing in any way in such bank, and from receiving any fee or reward from any such banking association, otherwise than is by the laws of this State provided; and if either of the above named officers shall violate any of the conditions of this section, he shall be deemed guilty of a misdemeanor and subject to punishment, as provided in section fifty-one hereof.

Association to carry on their business of banking at the place designated in their issue, &c.

SEC. 40. Every association formed for the purpose of banking under this act, shall carry on their business of banking at the place designated in their issues, and where the directors, or a majority of them, reside; they shall also have a regular banking house, or rooms, provided for the purpose of banking, and shall have painted above the outside door of said bank, in large letters, the name of said bank or banking association, and shall keep regular banking hours, which shall be from ten o'clock, A. M., until three o'clock, P. M., of each day, Sundays, Fourth of July, New Year's and Christmas days, the annual October elections, and public thanksgiving days excepted.

Banking hours.

Unlawful for any officer to purchase or exchange, for any bill or bills issued by any bank created or acting under this act, for less than the amount specified on the bill or bills.

SEC. 41. It shall be unlawful for any stockholder, president, cashier, clerk, teller, director, attorney, agent, or other employee of any bank, banking company, or association, for themselves or for the bank, banking company, or any other person, association of persons, corporation, or State, to purchase or exchange for any bill or bills the issue of any bank, or banking company, or association, created or acting under the provisions of this act, at a rate less than the amount specified upon such

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Penalty.

bill or bills; any such person, who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalties in section fifty-one.

Banks organized under general banking law may comply with sec. 6, by transferring or depositing the required additional amount of stocks or bonds, &c., so that the *pro rata* contemplated shall be preserved.

SEC. 42. Every banking association, organized and doing business under the General Banking Law of this State, may comply with section six of this act, either by transferring and depositing the required additional amount of stocks or bonds, or by surrendering to the Auditor, for cancellation, a sufficient amount of the issues of such associations, so that the *pro rata* contemplated in said section shall always be preserved.

Treasurer shall certify to auditor on request of any banking association the worth of bonds transferred and deposited with him, and auditor to register, &c.

SEC. 43. The Treasurer of State shall, under his hand and official seal, certify to the Auditor, whenever so requested by any banking association formed under this act, the worth of bonds transferred and deposited with him by them, and the Auditor shall thereon register, countersign, and surrender to such association notes to be circulated as money by them, preserving always the *pro rata* contemplated in section six hereof.

When notes protested, as in sec. 9 set forth, the holder to recover damages, ten per cent. per annum.

SEC. 44. Whenever the issues of any bank shall have been protested, as set forth in section nine hereof, the holder or holders of such issues thus protested and not redeemed, shall recover damages from such bank at the rate of ten per centum per annum, from the date of such protest, until they are finally redeemed: *Provided, however*, That nothing in this act shall be so construed as prevent any bank from redeeming its own notes with the notes of any other bank, when the demand is made on the behalf of such other bank.

Proviso.

Banks whose stocks have depreciated 5 per cent. on order of Governor, Treasurer, Secretary, and Auditor, shall deposit additional security.

SEC. 45. When, in the opinion of the Governor, Treasurer, Secretary, and Auditor of State, or a majority of them, the bonds or stocks deposited to secure the redemption of the issues of any bank have depreciated in value five per cent., they shall order such banking association owning the bonds and stocks thus depreciated, to furnish such other additional security as they may require, or to return to the Auditor such portion of the circulating notes of such banking association as shall, by the above named officers, be deemed fully sufficient to protect the bill holder from loss; and, in such case, when the securities deposited have depreciated five per cent., the Auditor shall revoke the power of attorney heretofore mentioned, and receive, himself, the interest on all stocks or bonds thus deposited and depreciated, and shall deposit it in some safe institution, in his name, in trust for the association to whom the same may belong, and it shall be paid to such association whenever they comply with the provisions of this section.

When securities have depreciated 5 per cent., Auditor may revoke power of attorney.

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SEC. 46. Before any banking association shall receive from the Auditor any notes to be circulated by it as money, the owners thereof shall file with said Auditor a certificate of the Clerk, Auditor, and Recorder of the county where said bank is, or is to be located, to the effect that such owners are possessed of taxable property, free from incumbrance, and subject to execution, other than the interest in said bank, and within the limits of this State, to the amount and value of not less than twenty-five per cent. of the amount of the circulation of such bank; or, in lieu thereof, said owners shall file with said Auditor a bond, to be approved by the Governor, Treasurer, Secretary, and Auditor, or a majority of them, to the amount of twenty-five per cent. of said circulation; and, as an additional security for the redemption of the issues of such bank, said certificate or bond shall be renewed annually; and the Auditor shall withhold the interest due said association until the provisions of this section are complied with.

Auditor not to deliver any notes to be circulated, until such banking association shall file with him a certificate from clerk, auditor and recorder, where such bank is to be located, that the owners of such bank have taxable property, free from incumbrance and subject to execution, other than the interest in said bank, and in this State; or said owners may file a bond with Auditor, to be renewed annually.

Auditor to withhold interest until this section is complied with.

SEC. 47. When, in the opinion of the Governor, Treasurer, Secretary, and Auditor, (or a majority of them,) the public good requires it, they shall appoint some competent person, who shall be termed a Bank Commissioner, to examine into the condition of any or all the banks of this State, organized under the General Banking Law of 1852, or any subsequent law; and such commissioner from the time he enters any bank designed to be examined, shall have the entire control of the same, its safes, its books, and its papers, and all other things necessary to enable him to make a complete and thorough examination of the same; and any shareholders, director, or officers of such bank, or any other person who shall resist such commissioner, or who shall refuse to give him the faculties [facilities] above referred to, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as prescribed in section fifty-one hereof, and any such commissioner making a false report of the condition of any bank, as examined as aforesaid, shall be deemed guilty of felony, and on conviction thereof be punished as prescribed in section fifty of this act.

Governor, Treasurer, Secretary and Auditor may appoint bank commissioner.

SEC. 48. Every bank or banking association organized under the provisions of the General Banking Law of this State, may, in case it shall immediately after the passage of this act pay all its circulating notes in coin upon demand, have until the first day of March, 1857, to wind up or accept the provisions of this act: *Provided*, That the Auditor shall in no case issue any circulating notes to any bank until it shall have fully com-

Banks organized under law of 1852 on certain conditions to have until March 1, 1857, to wind up or accept provisions of this act.

Proviso.

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plied with the provisions of this act: *And provided further*, That if any bank shall fail to pay its circulating notes in coin, it shall be wound up and closed by the Auditor pursuant to the provisions of this act.

Banks acting under law of 1852, violating sections 27 or 30 of this act, &c., auditor to give public notice thereof in 2 newspapers published in N. York, and 2 published in Indianapolis.

SEC. 49. Whenever, in the opinion of the Governor, Treasurer, Secretary, and Auditor of State, or a majority of them, any of the banks, or banking associations, acting under the General Banking Law of this State, have violated the conditions of sections twenty-seven or thirty of this act, such fact shall be forthwith conveyed to the said Auditor, who shall immediately proceed to give public notice thereof in two newspapers printed and published in the city of New York, and in two printed and published in the city of Indianapolis, stating in substance that such bank, or banking association, has failed to comply with the laws of this State regulating general banking, and that the bonds or stock transferred or deposited in the office of the Treasurer of State by such bank, or banking association, will be, within twenty days from the date of the first publication, as aforesaid, sold in the city of New York, specifying the precise place, at public auction, by said Auditor or his agent; and said Auditor, in compliance with said notice, shall sell said stock, or bonds, and with the proceeds arising therefrom, redeem the outstanding issues of said bank, or banking association, in proportion that the proceeds bear to the said outstanding issues: *Provided, however*, That the place of doing business of any bank henceforth [heretofore] established may, within six months after the passage of this act, be changed to some other place of greater commercial importance, to be approved by the Governor and Secretary of State, a certificate whereof shall be filed in the office of the Auditor of State, after which the circulating notes of such bank shall be deemed to be payable at the place designated therein.

Proviso in relation to change of location of any bank.

Any person violating sections 16, 36, or 47 of this act, deemed guilty of felony, and penalty on conviction.

SEC. 50. Any person or persons violating section sixteen, thirty-six, or forty-seven of this act, shall be deemed guilty of felony, and, upon conviction thereof, shall be fined not exceeding ten thousand dollars, and be imprisoned in the State Prison not less than two nor more than fourteen years, and be forever after rendered incapable of holding any office created by this act.

Any person violating sections 39, 41, or 47 of this act, deemed guilty of misdemeanor, and penalty on conviction.

SEC. 51. Any person or persons violating sections thirty-nine, forty-one, or forty-seven of this act, shall be deemed guilty of misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one thousand dollars, and be imprisoned in the jail of the proper county not exceeding one year, and be ever after incligible to any office of trust or profit.

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Banks organized under general banking law, or to be organized hereafter, desiring to go into liquidation, to give notice in two papers published in Indianapolis, and in one nearest the place of location of bank. Auditor to cancel issues of such bank, and to certify to treasurer every $100 canceled. Treasurer to surrender stock to bank.

SEC. 52. Any bank, or banking association, organized under the General Banking Law of this State, or hereafter to be organized, desiring to go into liquidation for the purpose of closing business, shall give public notice of that fact in two newspapers at Indianapolis, and in one published at the place, or nearest to the place where such bank or banking association is located; and the Auditor thereupon shall receive and cancel all the issues of such bank or banking association that may from time to time be presented by such association to him, and for every one hundred dollars thus cancelled he shall certify the same to the Treasurer, who shall surrender to such bank or banking association, the amount of stock deposited to secure the same, as often as such notes shall have been received and cancelled, in sums large enough te cover the value of any one or more of the securities in the hands of the Treasurer: *Provided*, That the Treasurer in so surrendering such securities shall deliver to such bank or association securities not exceeding in value a fair average of those deposited by such bank or association as near as may be; and at the expiration of two years, after such bank or banking association has given the notices required in this section, including a notice to all holders of its notes, in circulation, to present them at said bank for payment, the Treasurer shall surrender to such bank or association all its stocks or securities remaining deposited in his office: If such bank or association shall file a bond or undertaking signed by all the owners of its stock, or a bond signed by any stockholder, with security to be approved by the Auditor, conditioned for the prompt payment on demand of all its outstanding notes, if any such notes remain unpaid.

Proviso in regard to surrender of stock.

Laws in conflict repealed.

SEC. 53. All laws and parts of laws conflicting with this act are hereby repealed.

Banks acting under this act to appoint agent, to keep office in Indianapolis, for redemption of issues.

SEC. 54. Each bank organized under the provisions of this act, and each bank now in existence instituted under the provisions of said amended act, shall, upon its compliance with the provisions of this act, appoint an agent, who shall keep an office in the city of Indianapolis for the redemption of the circulating notes of such bank, either in coin or exchange upon the city of New York, at the option of such bank: *Provided, however*, That such circulating notes may be redeemed at such agency, if in coin, at a rate of discount not exceeding one per cent., and if in exchange, at a rate not exceeding the current rate of exchange at the time upon New York. Such agent shall be appointed in writing, a certificate of which shall be filed in said banking department, which

Proviso in relation to redemption of issues.

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shall cause a list of the agents appointed under this act to be published in one of the daily newspapers of the city of Indianapolis. Each bank whose agent shall for the space of ten days refuse to redeem its notes, as aforesaid, may be proceeded against by the banking department, upon protest, in the same manner as herein provided, upon a refusal to pay coin at the bank.

Auditor and Treasurer to give bond.

SEC. 55. The Auditor of State shall give bond, with security, in the sum of twenty-five thousand dollars, and the Treasurer of State shall give bond, with security, in the sum of fifty thousand dollars, payable to the State of Indiana, conditioned for the faithful performance of their respective duties under this act; which bonds and security shall be approved by the Governor, and his approval shall be endorsed on the bonds, which shall then be placed by him in the office of Secretary of State, who shall file and deposit them in his office; and suit may be brought thereon for the use of any person, or persons, or banking association which may be injured by any breach of duty on the part of said Auditor or Treasurer in relation to any duties required of them respectively by this act. The Auditor shall receive a salary of fifteen hundred dollars, and the Treasurer of State shall receive eight hundred dollars salary in addition to all other fees and salaries for the performance of all the duties required of them by this act, which salaries shall be paid out of the State Treasury; which amount shall be repaid to said Treasury by the banks in the form of a fee of one per cent. on each bill for circulation signed by the Auditor; and if said fee does not amount to a sum sufficient to repay the same, the residue shall be apportioned equally amongst the banks, and retained out of their interest on their bonds, unless otherwise paid by the respective banks upon being duly informed of the amount thereof.

Salary of Auditor and Treasurer, and how paid.

Emergency.

SEC. 56. Inasmuch as the present General Banking Law of this State is insufficient to afford the people a sound circulating medium, an emergency exists for the immediate taking effect of this act. It is therefore declared that the same shall take effect and be in force from and after its passage.

Passed the House March 3d, 1855, the Governor's objections thereto to the contrary notwithstanding.

JOHN LEVERING, *Clerk*,
By A. B. JONES, *Assistant*.

Passed the Senate March 3d, 1855, the Governor's objections thereto notwithstanding.

SOLON TURMAN,
*Sec'y of the Senate*.

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## CHAPTER VIII.

AN ACT authorizing county agricultural societies to purchase and hold real estate.

[APPROVED FEBRUARY 7, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That every county or district agricultural society, organized agreeable to the provisions of an act for the encouragement of agriculture, approved February 17th, 1852, shall be a body corporate, with perpetual succession, and as such shall be empowered to purchase and hold real estate, for the use of the annual fairs and other exhibitions of said society: *Provided*, that the amount of real estate so purchased and held shall not exceed twenty acres; *and provided also*, that said purchase shall be made at such place, and under such regulations, as may be prescribed by the by-laws of such society.

County and district societies declared a body corporate and empowered to purchase and hold real estate.

Proviso.

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## CHAPTER IX.

AN ACT to authorize county commissioners in their respective counties to sell the lands in which the surplus revenue fund belonging to the common schools has been invested, and to reinvest the proceeds.

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That where the surplus revenue fund belonging to common schools, in any county in this State, or any part of such fund, has by any means become invested or changed into real estate, the board of commissioners of such county are hereby authorized to dispose of the same, by sale, in such manner as may seem best for the interest of the common school fund, and to reinvest the proceeds of such sale in the manner directed by law for the investment of other moneys belonging to the common school fund.

Where surplus revenue fund belongs to common schools, and been invested, &c., in real estate, county commissioners are authorized to dispose of same by sale for best interest of common school fund.



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# CHAPTER X.

AN ACT to adjust the Gibson Seminary Township claim, and providing for the payment of the judgment of the Vincennes University against the State, by issuing State bonds therefor.

[APPROVED FEBRUARY 13, 1855.]

Preamble.

WHEREAS, by virtue of an act of the General Assembly of the State of Indiana, approved January 17th, 1846, a suit in chancery, in the Marion circuit court, was authorized against the State, in place of suits then pending against purchasers from the State, to try the right of the board of trustees for the Vincennes University to the Gibson Seminary Township, which suit has now been decided against the State, whereby the said board of trustees for the Vincennes University are now entitled, in pursuance of said act and decree, to receive from the Treasury of State the funds arising from the sales made by the State of said Seminary lands, and also the money yet due from the purchasers;

AND WHEREAS, before the passage of said act, all the proceeds of the said sales had, by divers acts of the legislature, been appropriated to the use of the trustees of the Indiana University, and have long since been so mingled with the other funds thereof, that they cannot now be well identified;

AND WHEREAS, whilst it is made the duty of the general assembly, by the constitution, to preserve inviolate the funds appropriated to the use of the State University, it is equally its duty to protect those who have purchased the Gibson Seminary lands under the supposed title of the State, as well as to preserve good faith towards the Vincennes University, in affording it the benefit of the said act of January 17th, 1846, according to the true intent thereof, and of their rights as established by said decree;

AND WHEREAS, there is yet litigation pending in relation to the execution of said decree of the Marion circuit court, whereby a speedy settlement is likely to be delayed, to the great injury of both of said institutions of learning;

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AND WHEREAS, it is represented that, for the purpose of settling finally all of said litigation, as well as of assuring to the said Vincennes University a safe investment, the board of trustees thereof are willing to accept, in full satisfaction of all their claim to the said lands and to the proceeds thereof, in pursuance of the said act and decree, State bonds to an amount equal to the amount which might be found due them, according to a fair and equitable construction of said act of January 17th, 1846, that is to say, all the money yet due from the purchasers of said lands, and all the money paid into the Treasury on account of the sales of said lands, and the interest which, under the laws of the State, has accrued thereon, with the costs of lawsuits and litigation; therefore,

Preamble continued.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Auditor and Treasurer of State forthwith proceed to ascertain the amount for principal and interest equitably due to the said trustees for the said Vincennes University, by virtue of said act of 1846, and of said decree in equity, and of the claim therein set up, having proper regard to the decisions of the Supreme Court of the United States thereon, so that in no event the amount determined by them shall be more than that allowed by the said decree, with interest thereon and the costs, the said interest to be computed to December 31st, 1854.

Auditor and Treasurer of State forthwith proceed to ascertain amount of principal and interest due trustees.

What time interest to be computed to.

SEC. 2. For the amount of the sums so as aforesaid determined, the said auditor and treasurer shall cause to be prepared and issued to the said, the board of trustees for the Vincennes University, State bonds, signed by them as such auditor and treasurer, in sums of five and of one thousand dollars each, with a like bond for any fractional sum, payable, principal and interest, to said board of trustees, or bearer, at the State treasury; the principal at the pleasure of the State, after thirty years from the date, and the interest, at the rate of six per cent. per year, payable semi-annually on the first days of July and January hereafter. The said bonds shall bear date the first day of January, 1855, and *coupons* for the interest shall be annexed to them, said *coupons* to be signed by the said auditor or any deputy appointed by him: *Provided*, that on ninety days notice, at any time before the expiration of thirty years, in a paper published at Vincennes and at indianapolis, of the State's readiness to redeem, said bonds shall be payable, after which interest shall stop.

Auditor and Treasurer to cause bonds to be prepared and issued to trustees.

The amount of each bond.

The principal payable at pleasure of State after thirty years from date.

Interest payable semi-annually.

*Coupons* to be annexed to bonds.

Proviso.

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Receipt of bonds by trustees deemed a release to the State.

SEC. 3. The receipt of the said bonds by the said, the board of trustees of the Vincennes University, shall be deemed and taken to be a release, in law and fact, by the said board, to the State and to all persons whatever, of said decree and of all right and claim on the part of said board to or on account of the lands in said Gibson Seminary Township, sold by the State, and to all money being the proceeds thereof or interest thereon, and to all costs and damages therefor, as fully as a release, under their corporate seal, could in any manner operate.

Emergency.

SEC. 4. That an emergency exists by reason of the matters stated in the preamble to this act; and that therefore this act shall be in force from and after its passage.

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## CHAPTER XI.

AN ACT to fix the commencement of the terms of certain county officers, and to render the same uniform.

[APPROVED MARCH 3, 1855.]

Officers.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the terms of office of the following named county officers, to-wit: The Sheriff, Treasurer, Coroner, Auditor, Recorder, Clerk, Surveyor, and County Commissioners, shall commence on the first Monday of the month of November, immediately following the general October elections, and that any of the above named officers to be elected hereafter shall hold their offices until the first Monday of November aforesaid, according to their respective terms.

Officers elected October, 1854, election declared valid.

SEC. 2. That whenever any of the aforesaid officers shall have been elected at the October election of 1854, said election shall be, and is hereby, declared valid, and they shall enter upon the discharge of the duties of the said offices at the expiration of the term of the present incumbent, and hold the same as provided in the first section of this act.

Term, when to commence.

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# CHAPTER XII.

AN ACT to provide for the relocation of County Seats, and for the erection of Public Buildings in counties in case of such relocation.

[APPROVED MARCH 2, 1855.]

When and on what conditions may be relocated.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever two-thirds of the legal voters of any county in this State shall, by written petition, request the Board of Commissioners of their county to relocate the county seat of such county, designating in such petition the site where such relocation is desired, and shall procure the conveyance to such board by deed, with good title, of two lots of ground, one containing not less than three acres, as a site for the Court House, and the other containing not less than one-fourth of an acre, as a site for the County Prison, to be held by such board exclusively for those purposes, and shall deposit with said board the sum of fifty dollars for the payment of an architect, then such board shall proceed to have new county buildings to be erected thereon, and the county seat removed thereto, in the manner, and upon the conditions set out in the following sections.

Petition presented verified by affidavit of one or more persons. Board to employ architect, &c.

SEC. 2. When such petition is presented, and the signatures thereto verified to be genuine, by affidavit of some one or more persons, and said money deposited, then said board shall at once employ a competent architect to prepare plans, specifications, and estimates suitable for new county buildings, the buildings to be of brick or stone, and the county offices to be fire proof, or as nearly so as practicable, the cost of the whole not to exceed fifteen thousand dollars, unless requested by the petitioners, and such plans, specifications, and estimates shall be presented to the said board at its next session.

If petitioners secure to board sufficient amount to complete buildings, &c., board to cause Auditor to advertise for proposals.

SEC. 3. If such petitioners, or some of them, shall, within three months after such estimates and plans are presented, cause to be secured to such board the payment of a sum of money equal to the whole amount of such estimates, to defray the expense of erecting and completing the necessary county buildings, and to enclose the grounds with a substantial fence, then such board shall at once cause the Auditor to advertise immediately in the newspapers of such county, if any there be, or if none, then in the nearest newspaper of general circulation, and by posting in six public places in said county for sealed proposals for the erection of such build-

ings, according to said plans and specifications, such proposals to be presented to said board at its next regular session.

At session when proposals are to be filed, board to contract for erection of buildings, and contractor to enter into bond.

SEC. 4. At the said session, when such proposals are required to be filed, such board shall contract, in writing, with some person or persons for the erection of such buildings upon the best and most favorable terms to be had, and shall take a bond or bonds from such contractors, in a sufficient penalty, with good and approved security, conditioned to complete such buildings according to the stipulations of the said contract, the buildings to be completed within one year from the time such contract is made. And the said board shall also employ a competent person to superintend the erection of such buildings, and to see that the terms of such contract are complied with.

Board to employ person to superintend buildings.

Board to direct Treasurer to collect sums secured to be paid in section 3.

SEC. 5. Such board shall direct the County Treasurer to collect and receive the said sum secured, to be paid as provided in section 3d of this act, and the same shall be paid over to the contractor, upon warrant of the Auditor, in such sums, and at such times, as such board may direct; and if any remain after the payment of such contractors, the same shall be expended in the improvement of such new site.

Soon as buildings completed, board to cause books, papers, &c. to be removed, and from thence new site to be held as seat of justice.

SEC. 6. So soon as said buildings are completed, at the end of one year named in section 3d of this act, the County Commissioners shall cause all the books, papers, and furniture of the several county offices, and of the several Courts of the county, and of the County Prison, and the occupants of such prison, to be removed to such new buildings, and from the time of such removal such new site shall become, and be held and treated as the seat of justice of such county.

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# CHAPTER XIII.

AN ACT to amend the 238th section of an act, entitled "An Act to revise, simplify, and abridge the rules, practice, pleadings, and forms in civil cases in the Courts of this State, to abolish distinct forms of actions at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852, and to provide that County Auditors and Treasurers shall be competent witnesses in suits now pending, or hereafter to be commenced, in relation to the surplus revenue and the school and trust funds.

[APPROVED FEBRUARY 27, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the two hundredth and thirty-eighth section of an act, entitled "An act to revise, simplify, and abridge the rules, practice, pleadings, and forms in civil cases in the Courts of this State to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852, which reads as follows: "Sec. 238. No person offered as a witness shall be excluded from giving evidence, either in person or by deposition, in any judicial proceeding, by reason of incapacity from crime or interest. But this section shall not render competent a party to an action, or the person for whose use it is so brought, or the husband or wife of any such party," be amended to read as follows: "Sec. 238. No person offered as a witness shall be excluded from giving evidence, either in person or by deposition, in any judicial proceeding, by reason of incapacity from crime or interest. But this section shall not render competent a party to an action, or the person for whose use it is brought, or the husband or wife of any such party, except that in all suits now pending, or hereafter to be commenced, in relation to the surplus revenue and other school or trust funds, the County Auditor and County Treasurer shall be competent witnesses, whether they are parties to such suits by virtue of their offices. Section 238 amended.

SEC. 2. As there is no law now in force in this State upon this subject, it is declared that an emergency exists for the immediate taking effect of this act. This act shall be in force from and after its passage and publication in the State Sentinel and State Journal. Emergency.

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## CHAPTER XIV.

AN ACT to amend section 540 of an act entitled "An act to revise, simplify and abridge the rules, practice, pleadings and forms, in civil cases, in the courts of this State; to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," (approved June 18th, 1852,) and to provide for changing the docketing justices' judgments from the execution to the judgment docket of the Court of Common Pleas.

[APPROVED MARCH 1, 1855.]

Sec. 540 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section five hundred and forty of an act entitled "An act to revise, simplify and abridge the rules, practice, pleadings and forms, in civil cases, in the courts of this State; to abolish distinct forms of action at law, to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852, which is in the following words, to wit: "SEC. 540. It shall be the duty of the clerk forthwith to record the transcript in the order book, and docket the judgment in the execution docket. The judgment set forth in the transcript shall be a lien upon the real property of the defendant within the county, to the same extent as judgments of the court of common pleas, from the time of filing the transcript." Be amended so as to read as follows: It shall be the duty of the clerk forthwith to record the transcript in the order book, and docket the judgment in the judgment docket. The judgment set forth in the transcript shall be a lien upon the real property of the defendant within the county, to the same extent as judgments of the court of common pleas from the time of filing the transcript.

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## CHAPTER XV.

AN ACT to amend the five hundred and ninety-sixth section of chapter first and article twenty-ninth, of the Revised Statutes of 1852, and entitled "An act to revise, simplify and abridge the rules, practice, pleadings and forms, in civil cases, in the

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courts of this State, to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852.

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the five hundred and ninety-sixth section of chapter first and article twenty-ninth of the Revised Statutes of 1852, and entitled "An act to revise, simplify and abridge the rules, practice, pleadings and forms, in civil cases, in the courts of this State, to abolish distinct forms of actions at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852, which section reads as follows, to wit: "SEC. 596. The answer of the defendant must set forth under what claim of right, if any, he holds possession; and if as mere tenant, the name and residence of his landlord must be given; and if he does not defend for the whole premises, he shall specify for what particular part he does defend." Be and the same is hereby so amended as to read as follows, to wit: "The answer of the defendant shall contain a denial of each material statement or allegation in the complaint; under which denial the defendant shall be permitted to give in evidence every defence to the action that he may have, either legal or equitable." Sec. 596, chap. 1, art. 29, Rev. Stat. 1852, amended.

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## CHAPTER XVI.

AN ACT to amend an act entitled "An act to revise, simplify and abridge the rules, practice, pleading and forms, in civil cases, in the courts of this State: to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852.

[APPROVED FEBRUARY 2, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section four hundred and sixty-seven of the act in the title of this act referred to, which reads in the following words, to wit: "The time and place of making sale of real estate on execution, Sec. 467 amended.

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shall be publicly advertised by the sheriff, for at least twenty days successively, next before the day of sale, by posting up written or printed notices thereof, in three of the most public places in the township in which the real estate is situated, and a like advertisement at the door of the court house of the county; and also by advertising the same, for three weeks successively, in a newspaper printed nearest to the real estate, if any such newspaper be printed within the jurisdiction of the sheriff." Be amended so as to read as follows: "The time and place of making sale of real estate, on execution, shall be publicly advertised by the sheriff, for at least twenty days successively, next before the day of sale, by posting up written or printed notices thereof, in three public places in the township in which the real estate is situated, and a like advertisement at the door of the court house of the county; and also by advertising the same, for three weeks successively, in a newspaper printed nearest to the real estate, if any such newspaper be printed within the jurisdiction of the sheriff; *Provided*, that if the publisher of such newspaper shall neglect or refuse to publish such notice when requested so to do by the sheriff, it shall be lawful for the sheriff to publish the same in any other newspaper published within his jurisdiction; or if there be no other such newspaper published in the county, the sheriff may dispense with the publication of such notice in a newspaper, and the land may be sold without such publication; and the sheriff shall, in his return of such writ, state the refusal of the publisher of such newspaper to publish the notice; which return shall have the same effect in evidence as the official returns of sheriffs in other cases."

Emergency.

SEC. 2. It is hereby declared than an emergency exists for the immediate taking effect of this act, and that it shall take effect and be in force from and after its passage; and it is hereby made the duty of the Secretary of State to cause this act to be published in the Indiana Journal and State Sentinel, and to transmit a copy thereof to the clerk's office of each of the counties in this State.

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# CHAPTER XVII.

AN ACT to amend an act, entitled "An act to revise, simplify, and abridge the rules, practice, pleadings, and forms in civil cases in Courts of this State, to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852, and to prevent the continuance of a cause by the filing of interrogatories in the absence of the opposite party except upon affidavit.

[APPROVED FEBRUARY 12, 1855.]

Section 303 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 303 of the act, entitled as above set out, and approved June 18th, 1852, which section is in the following words, to-wit: "Sec. 303. Either party may propound interrogatories to be filed with the pleadings relevant to the matter in controversy, and require the opposite party to answer the same under oath. All interrogatories must be answered within the time limited positively, and without evasion, and the Court may enforce the answer by attachment or otherwise, and the party may, in addition thereto, set forth in his answer all relative matter in avoidance; the answer to the interrogatories may be used or not on the trial, at the option of the party requiring it," be, and the same is hereby amended, by adding thereto the following words, to-wit: *Provided*, That in the absence of such opposite party the filing of the interrogatories shall not work a continuance of the cause, unless it be shown to the Court, by affidavit, that the party who files such interrogatories expects to elicit facts by the answer material to him on the trial, that he believes such facts to be true, that he cannot prove the same by any witness, and that he files the interrogatories not for delay merely, but to obtain substantial justice at the trial.

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# CHAPTER XVIII.

AN ACT to amend the fifty-fourth section of an act, entitled "An act to revise, simplify, and abridge the rules, practice, pleadings, and forms in civil cases in the Courts of this State, to abolish distinct forms of actions at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852.

[APPROVED MARCH 1, 1855.]

Section 54 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the fifty-fourth section of an act, entitled "An act to revise, simplify, and abridge the rules, practice, pleadings, and forms in civil cases in the courts of this State, to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice without distinction of law and equity," approved June 18th, 1852, which is in the following words, to-wit: "Sec. 54. When any of the matters enumerated in section fifty do not appear upon the face of the complaint, the objection (except for misjoinder of causes) may be taken by answer. If no such objection is taken, either by demurrer or answer, the defendant shall be deemed to have waived the same, except only the objection to the jurisdiction of the Court over the subject of the action," be, and the same is hereby amended so as to read as follows, to-wit: "Sec. 54. When any of the matters enumerated in section fifty do not appear upon the face of the complaint, the objection (except for misjoinder of causes) may be taken by answer. If no such objection is taken, either by demurrer or answer, the defendant shall be deemed to have waived the same, except only the objection to the jurisdiction of the Court over the subject of the action, and except the objection that the complaint does not state facts sufficient to constitute a cause of action.

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# CHAPTER XIX.

AN ACT providing for the trial of causes in the several Circuit Courts in cases in which the Circuit Judge is interested or related to either of the parties. Also, providing for the holding of terms, or days, or parts of terms, of such Courts when such Judge is absent, or unable to attend, and repealing sections three and four, of chapter four, of the second volume of the Revised Statutes of 1852.

[APPROVED MARCH 1, 1855.]

If judge be interested in any way in cause pending he may decline presiding; or if either party object, deemed incompetent to preside.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any Judge of a Circuit Court shall have a pecuniary interest in, be a party to, or be related by kindred or marriage, or may have been of counsel to any party in any cause pending in the Circuit Court of any county of which he may be judge, it shall be lawful for such judge, in his discretion, to decline presiding during the trial of such cause, and if either party object to his presiding therein, he shall be deemed incompetent to preside during such trial.

If judge decline, or is incompetent, he shall appoint a time in vacation for trial of such cause, and notify some Judge or Attorney to preside.

SEC. 2. Whenever any judge shall have declined or may have been rendered incompetent to preside in any cause, for any of the causes mentioned in the preceding section, he shall appoint a time during the vacation of such Court for the trial of such cause, and give at least ten days notice thereof to some other Judge of a Court of record, or if the parties litigant shall so desire, to some practicing attorney of said Court, mutually agreed upon by said litigants, and said Judge or Attorney so notified, shall, at the time designated by such disqualified Judge, attend at the usual place of holding Courts in such county, and preside in said cause, and dispose of the same, subject to all the rules and regulations governing Circuit Courts in similar cases, with power to adjourn from time to time, until the business is disposed of. The Judge or Attorney so presiding in placing of such disqualified Judge, shall, upon presenting his account, to the correctness and truth of which he shall take and subscribe an oath to be attached thereto, receive such compensation as the Governor, Secretary, Auditor, and Treasurer of State shall deem reasonable, not exceeding five dollars a day for each day necessarily engaged.

Such Judge or Attorney to be paid a reasonable compensation, not to exceed $5 per day.

Such disqualified Judge may, if he deem proper, set such cause for trial during any regular term at which Judge or Attorney select-

SEC. 3. Such disqualified Judge instead of appointing a time during the vacation of said Court for the trial of any such cause, may, in his discretion, if deemed most conducive to the interests of all concerned, set down any such cause for trial at some specified time during

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ed may attend and preside.

any regular term of the Circuit Court in which such cause is pending, at which time any other Judge of a Court of record of this State, or Attorney selected as aforesaid, may attend upon the session of said Court and preside during the trial of such cause in the same manner as contemplated in the preceding section.

If Judge be unable to attend and preside at any term, and unable to make appointment, the Clerk, Auditor, and Sheriff may appoint.

SEC. 4. If, from any cause, any Judge of a Circuit Court shall be unable to attend and preside at any term of said Court, or during any day or part of such term, such Judge, or in his absence, or when he shall be unable to make such appointment, the Clerk, Auditor, and Sheriff of the proper county, or a majority of them, may appoint, in writing, any other Judge of a Court of record of this State, or any attorney thereof eligible to the office of such a Judge, to preside at such term, or during any day or part of said term. Such written appointment shall be entered on the Order Book of such Court, and such appointee shall, after being sworn, if he be not a Judge of a Court of record, conduct the business of such Court, subject to the same rules and regulations that govern Circuit Courts in other cases, and shall have the same authority, during the continuance of his appointment, as the Judge elect, or making such appointment. Such appointee shall be allowed four dollars, if not otherwise paid, for every day he shall so serve, and in going to and returning from the place of holding such Court, to be paid out of the annual compensation of such Circuit Judge, upon a certificate of the number of days served, signed and attested by the Clerk of such Court, being presented to the Auditor of State, who shall issue his warrant on the State Treasury for the amount due such appointee: *Provided*, That if the absence of said Judge be caused by his sickness, such appointee shall be paid a like amount, and in like manner, as provided for the payment of appointees in section second hereof.

Appointment to be entered on Order Book.

Compensation of appointee, and how allowed.

Proviso.

Auditor of State to issue warrant in favor of Judge.

SEC. 5. The Auditor of State shall issue his warrant to the Treasurer of State in favor of any such Circuit Judge for any sum heretofore deducted from his salary as compensation for holding his Court during his sickness.

Sections 3 and 4, chap. 4, vol. 2, Rev. Stat., 1852, repealed.

SEC. 6. Sections three and four of an act, entitled "An act providing for an organization of Circuit Courts, the election of Judges thereof, and defining their powers and duties, approved June 1st, 1852, and known as chapter four (4) of the second volume of the Revised Statutes of 1852, being inconsistent with the provisions of this act," be, and the same are hereby, repealed.

Emergency.

SEC. 7. Inasmuch as there is no adequate provision of law for the trial of causes in which the proper Cir-

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cuit Judge is interested, and when he is absent or unable to attend upon the regular session of any Circuit Court, or any day or part thereof, and as it is highly important to the dispatch of the business of the several Circuit Courts that such cases shall be immediately provided for, it is declared that an emergency exists for the immediate taking effect of this act, and that it shall be in force from and after its passage and publication in the Indiana State Sentinel and Indiana State Journal.

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## CHAPTER XX.

AN ACT to repeal all laws now in force establishing the times of holding Circuit Courts in the second judicial circuit, and to fix the times of holding said courts.

[APPROVED JANUARY 16, 1855.]

All laws fixing times of holding repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all laws now in force establishing the times of holding circuit courts in the second judicial circuit, be and they are hereby repealed.

Times of holding and length of terms in each county.

SEC. 2. The circuit courts in the second judicial circuit shall be held as follows, to wit: In Clark county, on the first Mondays of February and August; in Scott county, on the third Mondays of February and August; in Jackson county, on the fourth Mondays of February and August; in Washington county, on the first Mondays of March and September; in Lawrence county, on the second Mondays of March and September; in Orange county, on the fourth Mondays of March and September; in Crawford county, on the first Mondays of April and October; In Harrison county, on the second Mondays of April and October; in Floyd county, on the fourth Mondays of April and October. The court shall sit in Clark, Lawrence and Harrison, two weeks each; in Floyd, three weeks; and in each of the other counties aforesaid, one week, if the business shall require it.

Process, when returnable, and publication to what terms having reference.

SEC. 3. All process returnable to the next term of any of the courts aforesaid, as heretofore fixed, is hereby made returnable to the next term of said court, as fixed by this act; and all orders of court, recognizances and publications, having reference to the next terms of said circuit courts, shall be taken as having reference to said next terms respectively as fixed by this act, and all per-

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sons shall take notice of the times of holding said courts as herein fixed.

Emergency.

SEC. 4. An emergency exists requiring the immediate taking effect of this act. It shall therefore be in force from and after its passage, and the Secretary of State shall send immediately a copy of this act, to the clerk of each of said circuit courts.

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## CHAPTER XXI.

AN ACT fixing the time of holding the Circuit Courts in the fifth judicial circuit.

[APPROVED MARCH 3, 1855.]

Times of holding in respective counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several circuit courts in the fifth judicial circuit shall hereafter be held as follows, to wit: In the county of Hancock, on the second Mondays in February and August, in each year; in the county of Madison, on Monday succeeding the courts in the county of Hancock; in the county of Johnson, on Monday succeeding the courts in the county of Madison; in the county of Tipton, on Monday succeeding the courts in the county of Johnson; in the county of Hendricks, on Monday succeeding the courts in the county of Tipton; in the county of Hamilton, on Monday succeeding the courts in the county of Hendricks; in the county of Marion, on Monday succeeding the courts in the county of Hamilton; *Provided*, that if the Marion circuit court shall be in session at the commencement of any term of the supreme court, said circuit court shall adjourn for two weeks, when it shall again sit and finish the business of the term. The said courts, if the business thereof require it, shall sit in the counties of Hancock, Madison, Hendricks, Johnson and Hamilton, two weeks each; in Tipton, one week, and in Marion, as long as the business thereof requires.

Proviso in relation to Marion circuit and supreme.

Length of terms.

All persons concerned to take notice of this act. Writs, &c., when returnable.

SEC. 2. All parties in court in said circuit, and all witnesses and other persons concerned shall take notice of this act: and all writs, process and notices which may have been issued or served before the taking effect of this act, in relation to matters now pending in any court in said circuit, shall be returnable to the first day of the first term of said courts, as fixed by this act; and all suits, recognizances, motions, rules, and other proceedings, which, at the time of taking effect of this act, shall be pending in any of said courts, shall be acted upon

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therein in the same manner as if this act had been in force at the time they were commenced, taken, issued, or instituted.

Repeal. SEC. 3. All laws or parts of laws coming in conflict with the provisions of this act, be and the same are hereby repealed.

Emergency. SEC. 4. Whereas it is necessary that early notice should be given to suitors and others having business in said courts, an emergency is declared to exist for the immediate taking effect of this act, and it shall therefore take effect and be in force from and after its passage; and it is hereby made the duty of the Secretary of State to forward to the clerks of the Hendricks and Tipton circuit courts a copy of this act.

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## CHAPTER XXII.

AN ACT to fix the time for holding the Circuit Courts in the eighth judicial circuit, and repealing all laws in conflict therewith.

[APPROVED JANUARY 16, 1855.]

Terms of, when to commence. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several circuit courts of the eighth judicial circuit of this State, shall be held as follows, to wit: In the county of Parke, on the first Mondays in February and August, of each year; in the county of Vermillion, on the third Mondays in February and August, of each year; in the county of Fountain, on the Mondays succeeding the courts in the county of Vermillion; in the county of Montgomery, on the Mondays succeeding the courts in the county of Fountain; in the county of Boone, on the Mondays succeeding the courts in the county of Montgomery; in the county of Clinton, on the Mondays succeeding the courts in the county of Boone; in the county of Warren, on the Mondays succeeding the courts in the county of Clinton; in the county of Benton, on the Mondays succeeding the courts in the county of Warren; in the county of Tippecanoe, on the Mondays succeeding the courts in the county of Benton.

Length of terms. SEC. 2. Said courts, if the business thereof requires it, shall sit, in the counties of Parke, Fountain, Montgomery, Boone, Clinton and Warren, two weeks each; in the counties of Vermillion and Benton, one week



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each; and in the county of Tippecanoe, as long as may be necessary to transact the business of said county, if such time shall not exceed the term of six weeks.

Process, &c., when returnable. All parties interested to take notice of change.

SEC. 3. All process made returnable to any of the respective counties aforesaid, at the times heretofore fixed for holding the sessions thereof, shall be and the same are hereby declared and made returnable to the first days of the terms of the said courts respectively, as fixed by this act; and all parties, officers, witnesses and persons are hereby required to take notice of the changes of the time of holding said several courts as herein made.

Repeal.

SEC. 4. All acts contravening the provisions of this act are hereby repealed.

Emergency.

SEC. 5. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage; and the Secretary of State shall immediately forward a copy thereof to each of the clerks of said courts respectively, and that it be published in the State Sentinel and Indiana Journal.

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## CHAPTER XXIII.

AN ACT to fix the time of holding the Circuit Courts in the ninth judicial circuit.

[APPROVED MARCH 1, 1855.]

Times of holding.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts shall be held in the county of Marshall, on the second Mondays of February and August, in each year; in the county of Fulton, on the Mondays succeeding the courts in the county of Marshall; in the county of Pulaski, on the Mondays succeeding the courts in the county of Fulton; in the county of Starke, on the Mondays succeeding the courts in the county of Pulaski; in the county of Lake, on the Mondays succeeding the courts in the county of Starke; in the county of Porter, on the Mondays succeeding the courts in the county of Lake; in the county of Laporte, on the Mondays succeeding the courts in the county of Porter; and in the county of St. Joseph, on the Mondays succeeding the courts in the county of Laporte.

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SEC. 2. The terms of the courts, if the business require it, shall be in Laporte county three weeks; in St. Joseph and Marshall counties, two weeks; and in the counties of Fulton, Pulaski, Starke, Lake and Porter, one week each. Length of terms.

SEC. 3. All process made returnable to any of the courts of the counties aforesaid, at the times heretofore fixed for holding the sessions thereof, shall be and the same is hereby made returnable to the first days of the terms of said courts, respectively, as fixed by this act. Process, &c., when returnable.

SEC. 4. Inasmuch as the act of the present session of this General Assembly, creating the twelfth judicial circuit, has changed the time of holding the Jasper circuit court, an emergency exists for the immediate taking effect of this act, and that therefore this act shall be in force from and after its passage. Emergency.

SEC. 5. All laws inconsistent with this act are hereby repealed; and it is made the duty of the Secretary of State to forward copies of this act, immediately, to the clerks of the circuit courts of the counties of Starke, Lake, Porter, Laporte and St. Joseph. Duty of Secretary of State.

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## CHAPTER XXIV.

AN ACT to change the time of holding courts in the eleventh judicial circuit.

[APPROVED MARCH 3, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts of the eleventh judicial circuit shall be holden as follows, to wit: In the county of Huntington, on the second Mondays in February and August in each year; in the county of Wabash, on the Monday succeeding the courts in the county of Huntington; in the county of Miami, on the Monday succeeding the courts in the county of Wabash; in the county of Grant, on the Monday succeeding the courts in the county of Miami; in the county of Cass, on the Monday succeeding the courts in the county of Grant; in the county of Carroll, on the Monday succeeding the courts in the county of Cass; in the county of Howard, on the Monday succeeding the courts in the county of Carroll. Times of holding.

SEC. 2. The continuance of the terms of courts in said circuit shall be as follows, to wit: In the counties Continuance of terms.

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of Miami, Cass and Wabash, three weeks each; in the counties of Carroll and Grant, two weeks each; in the counties of Huntington and Howard, one week each.

Writs, &c., when returnable.

SEC. 3. All writs, subpœnas, venires, rules, orders of court, recognizances, publications, and process whatever, which may have issued from said circuit courts in said counties, since the last session thereof, or which may hereafter issue previous to the commencement of said terms, shall be deemed and taken to be and are hereby made returnable to the first day of the first term of said courts, to be holden in virtue of this act.

Repeal.

SEC. 4. All acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

Emergency.

SEC. 5. It is hereby declared that an emergency exists for the taking effect of this act. It shall therefore be in force from and after its passage and publication in the Indiana State Journal and State Sentinel; and it is hereby made the duty of the Secretary of State to forward a copy to each of the clerks of said courts.

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## CHAPTER XXV.

AN ACT creating the twelfth and thirteenth Judicial Circuits, and providing for the election of Judges thereof.

[APPROVED FEBRUARY 9, 1855.]

12th Circuit created, and of what counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the twelfth Judicial Circuit is hereby created, consisting of the counties of Benton, Jasper, White, and Tippecanoe.

When terms to commence, and length of same.

SEC. 2. The Circuit Courts in the said circuit shall commence in the county of Benton on the second Mondays of March and September in each year, and hold one week, if the business thereof may require it; in the county of Jasper on the Mondays succeeding the Courts in the county of Benton, and hold one week, if the business thereof may require it; in the county of White on the Mondays succeeding the Courts in the county of Jasper, and hold two weeks, if the business thereof may require it; in the county of Tippecanoe on the Mondays succeeding the Courts in the county of White, and hold as long as the business thereof may require.

Judge, when to be elected for 12th Circuit.

SEC. 3. At the general election, on the second Tuesday of October next, there shall be elected by the quali-

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fied voters of said counties a judge for said twelfth judicial circuit, who shall be commissioned and qualified, and hold his office in the manner required by law.

Duty of Prosecuting Attorney of 8th Circuit in relation to 12th.

SEC. 4. It is hereby made the duty of the Prosecuting Attorney elected in the eighth judicial circuit, to prosecute the pleas of the State, in the said twelfth judicial circuit, until the expiration of his present term of office, and until his successor in said twelfth circuit shall have been elected and qualified according to law.

Vacancy in office of judge declared, and how filled.

SEC. 5. It is hereby declared that on the taking effect of this act there is a vacancy in said office of Judge, and the Governor shall fill said vacancy by appointment under the provision of the Constitution of this State.

Writs, &c., when returnable.

SEC. 6. All writs, subpœnas, venires, rules, orders of Court, recognizances, publications, and process whatever, which may have issued from the Circuit Court in said counties, or which may hereafter be issued previous to the commencement of said terms, shall be deemed and taken to be, and are hereby made, returnable to the first day of the first term of said Courts to be holden as provided in this act.

What counties to constitute 13th Circuit.

SEC. 7. That the counties of Henry, Wayne, Randolph, and Jay, shall hereafter constitute a new circuit, to be called the thirteenth judicial circuit.

Continuance of terms, and length in said counties.

SEC. 8. The continuance of the terms of Court in the several counties of said thirteenth circuit shall be as follows, to-wit: In the counties of Randolph and Jay the Court shall sit two weeks, if the business thereof require it; in the county of Henry three weeks, if the business require it; and in the county of Wayne four weeks, if the business thereof require it.

Terms, when to commence.

SEC. 9. The terms of Courts in said counties shall commence as follows, to-wit: In the county of Wayne on the first Mondays in March and September in each year; in the county of Randolph on the fourth Mondays succeeding the commencement of the Courts in the county of Wayne; in the county of Jay on the second Mondays succeeding the commencement of the Courts in the county of Randolph; in the county of Henry on the second Monday succeeding the commencement of the Courts in the county of Jay.

Process, &c., when returnable

SEC. 10. All writs, recognizances, publications, orders of Court, and process whatever, which now have, or hereafter may issue in said counties, are hereby made returnable to the first day of said Courts, to be holden in pursuance of this act.

Emergency.

SEC. 11. As a greater number of cases are now pending in said Courts than can be tried under the laws in force, and to prevent delay in the administration of jus-

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tice therein, it is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

Duty of Secretary of State.

SEC. 12. The Secretary of State shall, immediately upon the approval of this act, transmit a certified copy thereof to the Clerks of the several Circuit Courts provided for in this act.

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## CHAPTER XXVI.

AN ACT providing for extending the terms of Circuit Courts by adjournment, when the pending business shall be unfinished.

[APPROVED FEBRUARY 12, 1855.]

When necessary may adjourn to some certain time specified in adjourning order.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That if at the close of any term of the circuit court of any county, or when it shall become necessary or proper for said court to adjourn from any cause, the business pending therein shall not be finished, it shall be lawful for such court to adjourn until some other certain time, to be specified in the adjourning order, of which public notice shall be given in some manner, to be specified by said court, and at such time, such court shall meet and continue in session so long as the business shall require, and such adjourned session shall be deemed a part of the regular term of such court.

Emergency, and duty of Secretary of State.

SEC. 2. Inasmuch as the business in several of the circuit courts docketed for the spring term, 1855, is too great to be completed within the period now limited by law, and the terms of such courts are very soon to be held, it is declared that an emergency exists for the immediate taking effect of this act, and therefore this act shall take effect and be in force from and after its passage, and the Secretary of State shall immediately transmit a certified copy hereof to the clerk of each Circuit Court.

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# CHAPTER XXVII.

AN ACT to fix the time of holding the Courts of Common Pleas, and the length of the terms thereof, in the several counties of this State, and repealing the former laws in reference thereto.

[APPROVED MARCH 3, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Courts of Common Pleas shall hold their terms in the several counties of this State, as set out in the following sections of this act:

SEC. 2. In the county of Allen, on the first Mondays in January, April, July, and October, and shall sit four weeks at each term, if the business require it. Allen.

SEC. 3. In the county of Adams, on the first Mondays of February, May, August, and November, and shall sit two weeks, if the business require it. Adams.

SEC. 4. In the county of Bartholomew, on the first Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it. Bartholomew.

SEC. 5. In the county of Benton, on the first Mondays in February, May, August, and November, and shall sit one week at each term, if the business require it. Benton.

SEC. 6. In the county of Brown, on the Mondays succeeding the courts in the county of Monroe, and shall sit one week at each term, if the business require it. Brown.

SEC. 7. In the county of Boone, on the Mondays succeeding the courts in the county of Montgomery, and shall sit two weeks at each term, if the business require it. Boone.

SEC. 8. In the county of Blackford, on the second Mondays in January, April, July, and October, and shall sit one week at each term, if the business require it. Blackford.

SEC. 9. In the county of Clark, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business shall require it. Clark.

SEC. 10. In the county of Clay, on the Mondays succeeding the courts in the county of Sullivan, and shall sit two weeks at each term, if the business require it. Clay.

SEC. 11. In the county of Crawford, on the third Mondays in February, May, August, and November, and shall sit one week at each term, if the business require it. Crawford.

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Carroll. SEC. 12. In the county of Carroll, on the second Mondays in March, June, September, and December, in each year, and shall sit two weeks at each term, if the business require it.

Cass. SEC. 13. In the county of Cass, on the first Mondays of February, May, August, and November, and sit two weeks at each term, if the business require it.

Clinton. SEC. 14. In the county of Clinton, on the Mondays succeeding the courts in the county of Carroll, and shall

Proviso. sit two weeks, if the business require it: *Provided*, that at the first terms of said courts under this act, the court in the county of Carroll shall commence on the first Monday in April, and in the county of Clinton, on the third Monday in April, and shall sit two weeks at each term, if the business require it.

Dearborn. SEC. 15. In the county of Dearborn, on the first Mondays in March, June, September, and December, and shall sit three weeks, if the business require it.

Decatur. SEC. 16. In the county of Decatur, on the first Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it.

Daviess. SEC. 17. In the county of Daviess, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Dubois. SEC. 18. In the county of Dubois, on the third Mondays in January, April, July, and October, and shall sit one week at each term, if the business require it.

Delaware. SEC. 19. In the county of Delaware, on the fourth Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

DeKalb. SEC. 20. In the county of DeKalb, on the first Mondays [in] January, April, August, and October, and shall sit one week at each term, if the business require it.

Elkhart. SEC. 21. In the county of Elkhart, on the first Mondays in February, May, August, and November, and shall sit two weeks, if the business require it.

Fayette. SEC. 22. In the county of Fayette, on the fourth Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Floyd. SEC. 23. In the county of Floyd, on the first Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it.

Franklin. SEC. 24. In the county of Franklin, on the first Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it.

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SEC. 25. In the county of Fountain, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Fountain.

SEC. 26. In the county of Fulton, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Fulton.

SEC. 27. In the county of Gibson, on the first Mondays in February, May, August, and November, and shall sit two weeks at each term, if the business require it. Gibson.

SEC. 28. In the county of Greene, on the second Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Greene.

SEC. 29. In the county of Grant, on the Mondays succeeding the courts in the county of Delaware, in January and July, and on the second Mondays in May and November, and shall sit two weeks at each term, if the business require it. Grant.

SEC. 30. In the county of Hamilton, on the first Mondays in February, May, August, and November, and shall sit three weeks at each term, if the business require it. Hamilton.

SEC. 31. In the county of Harrison, on the first Mondays of February, May, August, and November, and shall sit two weeks at each term, if the business require it. Harrison.

SEC. 32. In the county of Hendricks, on the second Mondays in February, May, August, and November, and shall sit two weeks at each term, if the business require it. Hendricks.

SEC. 33. In the county of Howard, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Howard.

SEC. 34. In the county of Henry, on the first Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it. Henry.

SEC. 35. In the county of Hancock, on the Mondays succeeding the courts in the county of Madison, and shall sit two weeks at each term, if the business require it. Hancock.

SEC. 36. In the county of Huntington, on the first Mondays in January, April, June, and October, and shall sit two weeks at each term in April and October, and one week at each term in January and June, if the business require it. Huntington.

SEC. 37. In the county of Jackson, on the third Mondays in January, April, July, and October, and Jackson.

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shall sit two weeks at each term, if the business require it.

Jasper. SEC. 38. In the county of Jasper, on the Mondays succeeding the courts in the county of Warren, and shall sit two weeks at each term, if the business require it.

Jefferson. SEC. 39. In the county of Jefferson, on the first Mondays in February, May, August, and November, and shall sit three weeks at each term, if the business require it.

Jennings. SEC. 40. In the county of Jennings, on the first Mondays [in] January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Johnson. SEC. 41. In the county of Johnson, on the third Mondays in January, April, July, and October, of each year, and shall sit three weeks at each term, if the business require it.

Jay. SEC. 42. In the county of Jay, on the third Mondays of February, May, August, and November, and shall sit three weeks at each term, if the business require it.

Knox. SEC. 43. In the county of Knox, on the third Mondays in March, June, September, and December, and shall sit two weeks at each term, if the business require it.

Kosciusko. SEC. 44. In the county of Kosciusko, on the fourth Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Lake. SEC. 45. In the county of Lake, on the Mondays succeeding the courts in the county of Porter, and shall sit one week at each term, if the business require it.

Lawrence. SEC. 46. In the connty of Lawrence, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Lagrange. SEC. 47. In the county of Lagrange, on the first Mondays succeeding the courts in the county of Elkhart, and shall sit two weeks at each term, if the business require it.

Laporte. SEC. 48. In the county of Laporte, on the third Mondays in February, June, August, and December, and shall sit two weeks at each term, if the business require it.

Madison. SEC. 49. In the county of Madison, on the first Mondays [in] January, April, July and October, and shall sit two weeks at each term, if the business require it.

Marion. SEC. 50. In the county of Marion, on the first Mondays in January, April, July, and October, and

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shall sit four weeks at each term, if the business require it.

Sec. 51. In the county of Martin, on the fourth Mondays in January, April, July, and October, and sit one week at each term, if the business require it. Martin.

Sec. 52. In the county of Monroe, on the Mondays succeeding the courts in the county of Morgan, and shall sit two weeks at each term, if the business require it. Monroe.

Sec. 53. In the county of Montgomery, on the first Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it. Montgomery.

Sec. 54. In the county of Morgan, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Morgan.

Sec. 55. In the county of Miami, on the first Mondays of January, April, July, and October, and sit two weeks at each term, if the business require it. Miami.

Sec. 56. In the county of Marshall, on the third Mondays in Jannary, April, July, and October, and shall sit two weeks at each term, if the business require it. Marshall.

Sec. 57. In the county of Noble, on the third Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Noble.

Sec. 58. In the county of Orange, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Orange.

Sec. 59. In the county of Ohio, on the third Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Ohio.

Sec. 60. In the county of Owen, on the fourth Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Owen.

Sec. 61. In the county of Parke, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it. Parke.

Sec. 62. In the county of Pike, on the third Mondays in January, April, July, and October, and shall sit one week at each term, if the business require it. Pike.

Sec. 63. In the county of Perry, on the first Mondays in January, April, July, and October, and shall sit one week at each term, if the business require it. Perry.

Sec. 64. In the county of Posey, on the first Mondays in March, June, September, and December, and may sit two weeks at each term, if the business require it. Posey.

Sec. 65. In the county of Putnam, on the first Mondays in March, June, September, and December, and Putnam.

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shall sit three weeks at each term, if the business require it.

Porter. SEC. 66. In the county of Porter, on the Mondays succeeding the Courts in the county of Laporte, and shall sit one week at each term, if the business require it.

Pulaski. SEC. 67. In the county of Pulaski, on the third Mondays in January, April, July, and October, and shall sit one week at each term, if the business require it.

Randolph. SEC. 68. In the county of Randolph, on the fourth Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it.

Ripley. SEC. 69. In the county of Ripley, on the fourth Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Rush. SEC. 70. In the county of Rush, on the fourth Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it.

Scott. SEC. 71. In the county of Scott, on the third Mondays in January, April, July, and October, and shall sit one week at each term, if the business require it.

Shelby. SEC. 72. In the county of Shelby, on the first Mondays in March, June, September, and December, and shall sit at each term as long as the business may require.

Spencer. SEC. 73. In the county of Spencer, on the second Mondays in January, April, July, and October, and shall sit one week at each term, if the business require it.

Starke. SEC. 74. In the county of Starke, on the fourth Mondays in January, April, July, and October, and shall sit one week at each term, if the business require it.

Steuben. SEC. 75. In the county of Steuben, on the second Mondays of January, April, August, and third Monday of October, and shall sit one week at each term, if the business require it.

Tipton. SEC. 76. In the county of Tipton, on the third Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Switzerland. SEC. 77. In the county of Switzerland, on the first Mondays in January, April, July, and October, and shall sit two weeks [at each term], if the business require it.

St. Joseph. SEC. 78. In the county of St. Joseph, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Sullivan. SEC. 79. In the county of Sullivan, on the Mondays

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succeeding the Courts in the county of Owen, and shall sit two weeks at each term, if the business require it.

Tippecanoe. SEC. 80. In the county of Tippecanoe, on the third Mondays in March, June, September, and December, and shall sit as long as the business thereof may require.

Union. SEC. 81. In the county of Union, on the Mondays succeeding the Courts in the county of Fayette, and shall sit two weeks at each term, if the business require it.

Vanderburgh. SEC. 82. In the county of Vanderburgh, on the first Mondays in March, June, September, and December, and shall sit three weeks at each term, if the business require it.

Vermillion. SEC. 83. In the county of Vermillion, on the third Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Vigo. SEC. 84. In the county of Vigo, on the first Mondays in January, April, July, and October, and shall sit four weeks at each term, if the business require it.

Wayne. SEC. 85. In the county of Wayne, on the first Mondays in January, April, July, and October, and shall sit four weeks at each term, if the business require it.

Warrick. SEC. 86. In the county of Warrick, on the fourth Mondays in March, June, September, and December, and shall sit two weeks at each term, if the business require it.

Washington. SEC. 87. In the county of Washington, on the third Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Warren. SEC. 88. In the county of Warren, on the first Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it.

White. SEC. 89. In the county of White, on the first Mondays in March, June, September, and December, and shall sit one week at each term, if the business require it.

Whitley. SEC. 90. In the county of Whitley, on the first Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

Wells. SEC. 91. In the county of Wells, on the second Mondays in January and June, and on the third Mondays in April and October, and shall sit two weeks at each term in April and October, and one week at each term in January and June, if the business require it.

Wabash. SEC. 92. In the county of Wabash, on the first Mondays in January, April, July, and October, and shall sit three weeks at each term, if the business require it.

If conflict in any county, Common Pleas to sit on SEC. 93. If the Circuit Court of any county shall be in session at the time fixed for the Court of Common

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Mondays succeeding Circuit.

Pleas in the same county, such Court of Common Pleas shall sit on the Mondays succeeding such Circuit Court.

If necessary for Common Pleas to adjourn by expiration of term or otherwise, may sit in vacation at time designated in order of adjournment, to complete business.

SEC. 94. When it shall become necessary or proper for any Court of Common Pleas to adjourn, either by the expiration of its term or otherwise, without completing the business of such term, it shall be lawful for such Court to adjourn until sometime in vacation, to be designated in the order of adjournment, of which public notice shall be given in such manner as may be ordered by such Court, and may, at such time so designated, proceed to complete the business of such term still remaining undisposed of; and said adjourned session of such Court shall be taken and deemed in law to be a part and continuation of the term at which said adjournment was made.

This act not to affect certain terms in certain counties.

SEC. 95. The passage of this act shall not affect the holding of the February term, 1855, of the Court of Common Pleas in Dubois county, of the February term, 1855, in Howard county, and of the March term, 1855, in Tipton county.

Repeal.

SEC. 96. The act, entitled "An act fixing the time of holding the Courts of Common Pleas, and the length of the terms thereof, in the several counties of this State," approved March 4th, 1853, and all laws contravening the provisions of this act, shall be, and the same are, hereby repealed.

Emergency, and duty of Secretary of State.

SEC. 97. It is hereby declared that, because of the necessity of giving timely information to officers and parties of the changes in the holding of the ensuing terms of such Courts of Common Pleas, an emergency exists for the immediate taking effect of this act, and therefore this act shall be in force from and after its passage, and the Secretary of State is hereby required to give immediate notice to the clerks of the several Courts whose terms have been changed of such changes.

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## CHAPTER XXVIII.

AN ACT to fix the time of holding the Courts of Common Pleas in the counties of Laporte, Porter, and Lake.

[APPROVED FEBRUARY 7, 1855.]

Times of holding and length of terms.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Courts of Common Pleas shall sit in the county of Laporte on the third

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Mondays of February, June, August, and December, and shall two weeks, if the business shall require. In the county of Porter on the Monday succeeding the Court in the county of Laporte, and shall sit one week, if the business shall require it. In the county of Lake on the Monday succeeding the Court in the county of Porter, and shall sit one week, if the business shall require it. And all process made returnable to any of the Courts of Common Pleas in said counties aforesaid, at the times heretofore fixed for holding the sessions thereof, shall be, and the same are hereby, made returnable to the first day of the terms of said Courts respectively, as fixed by this act.

Process, when returnable.

SEC. 2. Items forty-four, forty-seven, and sixty-five, of an act, entitled "An act fixing the time of holding the Courts of Common Pleas, and the length of the terms thereof, in the several counties of this State," approved March 4, 1853, fixing the time of holding the Courts of Common Pleas in said counties, are repealed.

What items, and of what act repealed.

SEC. 3. Inasmuch as it is necessary that this act should take effect and fix the terms of said Courts before the laws of this session will be published in the several counties of this State, an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

Emergency.

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## CHAPTER XXIX.

AN ACT to extend the time of holding Courts of Common Pleas in the county of Tipton at its March term, 1855.

[APPROVED FEBRUARY 28, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Common Pleas Court in the county of Tipton, at its March term for 1855, shall sit two weeks, if the business thereof require it.

What term, and length of.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage and publication in the State Sentinel and Journal.

Emergency.

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# CHAPTER XXX.

AN ACT fixing the times of holding courts in the common pleas district composed of the counties of Tippecanoe and White.

[APPROVED FEBRUARY 21, 1855.]

Times of holding and length of terms.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the terms of the common pleas courts of the counties of Tippecanoe and White, shall hereafter be holden as follows, to wit: In the county of White, on the first Mondays of March, June, September, and December, in each year; and, if the business in said court requires, it shall hold two weeks; and in the county of Tippecanoe, said court shall commence on the third Mondays of March, June, September and December, and shall hold as long as the business of said court may require, so as not to conflict with the terms of the circuit court of said county of Tippecanoe.

Process, when returnable, and parties to take notice.

SEC. 2. All process made returnable to either of said courts, at the times heretofore fixed for holding the sessions thereof, shall be and the same are hereby declared and made returnable to the terms of said courts respectively, as fixed by this act; and all parties, officers, witnesses, and persons, are hereby required to take notice of the changes herein made.

Repeal.

SEC. 3. All acts contravening the provisions of this act are hereby repealed.

Emergency.

SEC. 4. As there are more cases now pending in said courts than can be tried under the laws now in force, and as the terms of the circuit courts in said counties, as now fixed by law, conflict with the terms of the common pleas courts aforesaid, as now fixed by law, so that the first terms of said common pleas court could not be holden, and to prevent delay in the administration of justice, it is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

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# CHAPTER XXXI.

AN ACT to amend the sixty-fifth and sixty-sixth sections of an act providing for the settlement of Decedents' Estates, prescribing the rights, liabilities, and duties of officers connected with the management thereof, and the heirs thereto, and certain forms to be used in such settlement, (approved June 17th, 1852,) and supplemental thereto.

[APPROVED FEBRUARY 20, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the sixty-fifth section of an act entitled "An act providing for the settlement of decedents' estates, prescribing the rights, liabilities, and duties of officers connected with the management thereof, and the heirs thereto, and certain forms to be used in such settlement," approved June 17th, 1852, which section reads as follows, to wit: "Sec. 65. The clerk of the proper court shall make out a list of all claims filed against any estate, and, at the next term of such court thereafter, shall present the same to the executor or administrator thereof, when further proceedings shall be continued to the ensuing term of such court, unless, upon the application of such executor or administrator therefor, trial thereof is directed to be had at such first term by such court; but if such executor or administrator be not present at such first term, such clerk shall transmit to such executor or administrator such list, by mail, or otherwise, if his residence be known; and if his residence be unknown, and such list be not so presented to him, such claim shall be disposed of at the ensuing term, as if he were present." Be and is hereby so amended that the same shall read as follows, to wit: The clerk of the proper court shall enter upon the appearance docket of the same a list of all claims filed against any estate pending therein, which list shall be all the notice necessary to be given of the filing of the same. Sec. 65 amended.

SEC. 2. That the sixty-sixth section of said act, which section reads as follows, to wit: "Sec. 66. Such list shall be spread upon the appearance docket of such court in the order in which the claims are filed; and whether such executor or administrator appear or not, shall stand for trial, in that order at the second term after they are filed; and such trial shall, in all respects, be governed by the rules regulating the trials of similar actions in the circuit courts, except that such administrator or executor, and in the discretion of the court, the Sec. 66 amended.



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claimant may be examined, under oath, touching such claim; but no claim, except for services as executor or administrator, shall be allowed, unless proven by other testimony than that of the claimant; and all matters of valid defense, except a set off, may be given in evidence without any special plea; but no execution shall at any time issue upon such allowance, nor shall any claim be allowed after final settlement, but such allowance shall have the same force in any court of competent jurisdiction, in any suit thereafter instituted touching it, and may be given in evidence in the same manner as regular judgments at law." Be and is hereby so amended that the same shall read as follows, to wit: Whenever any claim against the estate of any decedent, shall have been filed and placed upon the appearance docket of such court, ten days before the first day of the ensuing term thereof, the executor or administrator of such estate shall admit or refuse to admit such claim, in writing, on the margin of such appearance docket opposite such claim. If such claim is not so admitted before the last day of said term, the same shall be transferred to the issue docket of such court, and shall stand for trial at the next term thereof, as other civil actions pending therein: *Provided*, that the court may, in its discretion, require further proof as to any claim, notwithstanding the executor or administrator may have admitted the claim in the manner provided in this section.

Proviso.

Executor or Administrator may, at any time before final settlement of estate, if such estate is probably insolvent, pay any claim he thinks is just.

SEC. 3. That any executor or adminstrator, at any time before final settlement of the estate he represents, may, in his discretion, pay any claim against said estate, if such estate is probably solvent, and such executor or administrator shall be satisfied that such claim is justly due, and that no valid defense exists against the same.

All claims heretofore paid, or shall be paid before this act takes effect, declared valid, &c.

SEC. 4. All claims and demands against any estate that have been heretofore paid, or shall be paid before this act takes effect, by any executor or administrator of such estate, are declared to be valid, and shall be allowed to such executor or administrator by the court in which he is required by law to make settlement; unless it shall be made to appear, by the party contesting such allowance, that such claims so paid was not a just demand against said estate.

Claims to be sworn to by claimant, &c.

SEC. 5. That after this act shall have taken effect, unless every claim against the estate of any decedent shall have the affidavit of the claimant thereto attached, which affidavit may be sworn to before and certified by the executor or administrator of such estate, to the effect that the same is justly due and wholly unpaid, no costs

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shall be recovered by said claimant, in any suit for the recovery of such claim against such estate, or the executor or administrator thereof.

SEC. 6. It is hereby declared that an emergency exists, which requires that this act shall take effect and be in force from and after its passage. Emergency.

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## CHAPTER XXXII.

AN ACT to repeal section fifty, chapter ten, of an act entitled "An act providing for the settlement of Decedents' Estates, prescribing the rights, liabilities, and duties of officers connected with the management thereof, and the heirs thereto, and certain forms to be used in such settlement, approved June 17th, 1852, and providing for credit on the sale of personal property, and legalizing settlements of executors and administrators, in certain cases."

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section fifty, chapter ten, of an act entitled "An act providing for the settlement of decedents' estates, prescribing the rights, liabilities, and duties of officers connected with the management thereof, and the heirs thereto, and certain forms to be used in such settlements," approved June 17th, 1852, be and the same is hereby repealed. Sec. 50, chap. 10, of act providing for settlement of decedents' estates &c., approved June 17th, 1852, repealed.

SEC. 2. *Be it further enacted*, that a credit of not less than three nor more than twelve months shall be given, in all sales of personal property, by the executor or administrator, when the amount purchased exceeds three dollars; and notes, with one or more approved sureties, waiving valuation and appraisement laws, shall be taken in all cases of sale by such executor or administrator. Credit given on all sales of personal property.

SEC. 3. All acts of executors or administrators under section four, of chapter thirty-five, of an act entitled "An act to amend an act providing for the settlement of decedents' estates, prescribing the rights, liabilities, and duties of officers connected with the management thereof, and heirs thereto, and certain forms to be used in such settlements," approved March 4th, 1853, be and the same are hereby legalized. All acts of executors and administrators under sec. 4, chap. 35, of act to amend act providing for settlement of decedents' estates, &c., legalized.

SEC. 4. Whereas, an emergency exists for the passage of this act, the same shall take effect and be in force from and after its passage and publication in the Indiana State Sentinel and Indiana Journal. Emergency.

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## CHAPTER XXXIII.

AN ACT to authorize the re-transfer of settlements of decedents' estates, guardianships, petitions to sell land, and all other matters that have been transferred from the Common Pleas Courts to the Circuit Courts on account of the judges of said Common Pleas being interested, back to said Common Pleas Courts.

[APPROVED FEBRUARY 28, 1855.]

When causes have been transferred to Circuit Court on account of disability of Judge from interest, such causes, upon successor taking office, if not interested, causes shall be re tranferred to Common Pleas.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any settlements of decedents' estates, guardianships, petitions to sell land, or other matters that may have heretofore been, or may hereafter be, transferred from the Common Pleas Courts of this State to the Circuit Courts, on account of the Judges of said Common Pleas Court being interested, shall, so soon as the said ju lges go out of office, be re-transferred by said Circuit Courts to the Common Pleas Courts, unless the successors of said judges shall be interested in the same.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that it shall be published in the Indiana State Journal and State Sentinel, and be in force from and after its passage.

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## CHAPTER XXXIV.

AN ACT to legalize, confirm, and declare valid all sales of real estate, all settlements of decedents' estates, and any and all acts done by any person, officer, corporation or association of persons, which may have been done in conformity with any amendatory act, passed during the Thirty-Seventh Session of the General Assembly of the State of Indiana.

[APPROVED MARCH 1, 1855.]

Preamble.

WHEREAS, During the Thirty-Seventh Session of the General Assembly of the State of Indiana, begun on the sixth day of January, A. D., 1853, there were many laws enacted with the intention to amend some of the laws of this State, as published in the Revised Statutes of Indiana, in the year A. D., 1852, which amendatory acts were approved by the Governor and published throughout the State of Indiana, and generally believed to be the laws of said State, and the

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citizens of the State have, with honest intentions, generally endeavored to conform to said amendatory acts, both in private transactions and in legal proceedings:

AND WHEREAS, Many of said amendatory acts are unconstitutional: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any and all acts done and performed, all moneys paid, all contracts made, all settlements of any decedents' estates made in full or in part, all sales of real estate made by any guardian, executor, administrator, or commissioner, or by any order of any Court, and any and all acts done by any person, officer, or corporation, or association of persons, which may have been made and done in conformity with said amendatory acts, are hereby legalized, confirmed, and declared valid to all intents and purposes.

Confirming and declaring valid all acts done in decedents' estates in conformity with any amendatory act passed at the 37th session of General Assembly.

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## CHAPTER XXXV.

AN ACT to provide for the restoration and preservation of the records of the Supreme Court.

[APPROVED FEBRUARY 7, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever the Supreme Court, or a majority of the Judges thereof, shall deem it necessary for the preservation of the records of said Court, or any part thereof, from mutilation or decay, arising from any cause whatever, to have the same transcribed, they shall make an order directing the clerk of said Court to transcribe said records in suitable books to be by him procured for that purpose; and said Court shall make such reasonable allowance to said clerk therefor as to them shall seem just and proper, and such compensation, when so allowed and certified by a Judge of said Court, shall be audited by the Auditor of State and paid as similar allowances in other cases.

Majority of Judges, if they deem proper, may make an order to have any records transcribed, by clerk, to preserve from mutilation, and make reasonable allowance, to be audited by Auditor of State.

SEC. 2. It shall be the duty of said clerk, whenever the Court shall make such order as herein contemplated, to procure such books, and transcribe therein such records, or parts thereof, as said Court may order; and such records, when so transcribed, shall have the force and effect of the original records, and transcripts of the

Duty of clerk in transcribing.

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same, or parts thereof, duly certified by said clerk, under the seal of said Court, shall have the same force and effect as transcripts of the original records.

Emergency.

SEC. 3. There being an emergency for the immediate taking effect of this act, the same shall be in force from and after its passage and publication in the Indiana State Journal and the Indiana State Sentinel.

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## CHAPTER XXXVI.

AN ACT to provide for written briefs and oral arguments in the Supreme Court.

[APPROVED MARCH 2, 1855.]

May require parties to file written brief, any law or order of Court to the contrary notwithstanding.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases which may be now, or hereafter, pending in the Supreme Court, whether upon appeal or otherwise, said Supreme Court may require the parties thereto to file, on the submission of such appeal or other proceeding, a written brief or argument of the points relied on, under such rules as the Court may adopt relative thereto, but in no case shall such party be required to print any brief or argument, any law or rule of Court to the contrary notwithstanding.

Proviso in relation to legibility of brief.

*Provided however*, That if the brief is not legibly written the Court may order its clerk to copy the same, and tax the costs of such copy at the rate of ten cents for each one hundred words, to the party filing the same.

Proviso as to oral argument.

*Provided however*, That this act shall not be so construed as to prevent any party, by himself or attorney, from orally arguing his said cause, if he shall choose so to do.

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## CHAPTER XXXVII.

AN ACT authorizing County Auditors to call a special term of the Board of County Commissioners whenever the interest of the county may demand it.

[APPROVED FEBRUARY 2, 1855.]

When interest of county demand Auditor to convene Board of Commissioners, and how.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever the interest of the county may demand it, the County Auditor shall convene the Board of County Commissioners for that purpose, by issuing to the Sheriff of the county a summons, to be by him served on each member of such board, or upon a majority thereof, in case any one of such board shall be temporarily absent from the county.

Emergency.

SEC. 2. As there is no law now in force authorizing the calling of special sessions of County Boards, it is hereby declared that an emergency exists for the immediate taking effect of this act; it shall, therefore, take effect and be in force from and after its passage and publication in the Indiana State Journal and Indiana State Sentinel.

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## CHAPTER XXXVIII.

AN ACT to give additional power to the State Board of Colonization.

[APPROVED MARCH 1, 1855.]

Funds heretofore appropriated to be expended according to discretion of State Board of Colonization.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the colonization funds heretofore appropriated for the purpose of aiding colored emigrants from this State to settle in Liberia, shall be expended according to the discretion of the State Board of Colonization: *Provided*, That not more than sixty-five dollars per emigrant be paid for the outfit and transportation of such: *And provided*, That such persons have been residents of Indiana since the adoption of the revised Constitution: *And provided*, That not more than two hundred dollars per annum be expended as a contingent fund.

Proviso.

Proviso.

Proviso.

State Board to elect such officers as they think necessary, and fix compensation.

SEC. 2. *Be it further enacted*, That the officers of State constituting the State Board of Colonization, shall have the power to elect such officers as they may con-

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sider necessary to carry on the enterprise, and to fix their compensation, which shall be paid out of the annual appropriation made for colonization purposes: *Provided*, That not more than six hundred dollars of said annual appropriation be thus annually expended. This restriction, however, does not apply to funds coming into their hands from other sources, in the expenditure of which they must be governed by a wise discretion.

Proviso.

State Board have power to negotiate with government of Liberia for land, &c.,

SEC. 3. That the State Board of Colonization shall have power to negotiate with the government of Liberia for land in Africa for the use and benefit of colored persons emigrating to said country from this State, on the best terms possible; and so much of the law of 1852 as restricts the board in the mode of locating said land, is hereby repealed.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, therefore this act shall be in force from and after its passage and publication in the Indiana State Sentinel and Journal.

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## CHAPTER XXXIX.

AN ACT to cure defects in the execution of deeds, or in the certificates of acknowledgement to conveyances of real estate, in certain cases therein named.

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all conveyances of land heretofore executed conformably to the laws of this State, in all other respects except that the seal of the person executing the conveyance, or officers certifying the acknowledgment is not affixed to the deed or certificate, shall have the same legal effect as if said conveyance or certificate had been under seal, and the record thereof shall be as effectual notice to subsequent purchasers, as if the conveyance or certificates had been under seal.

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## CHAPTER XL.

AN ACT to prevent the defalcation of certain officers therein named, and to provide penalties therefor.

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any sheriff, clerk of the circuit court, clerk of the court of common pleas, county treasurer, justice of the peace, constable, marshal of any city or incorporated town, or any officer or agent of any county, township, incorporated town, or city, who shall fraudulently fail or refuse, at the expiration of the term for which he was elected or appointed, or at any time during such term, when legally required by the proper person or authority to account for and pay over to such person or persons as may be lawfully entitled to receive the same, all moneys which may have come into his hands by virtue of his said office, shall be deemed guilty of a felony, and upon conviction thereof upon indictment, shall be imprisoned in the State Prison, for any period not less than one year nor more than five years, and fined in any sum not exceeding one thousand dollars, and rendered incapable of holding any office of trust or profit.

Certain officers failing to pay over funds in their hands, &c. deemed guilty of felony.

Penalty.

SEC. 2. It is hereby declared that an emergency exists for the passage of this act; and it shall therefore be in force from and after its passage and publication in the Indiana State Journal and Indiana State Sentinel.

Emergency.

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## CHAPTER XLI.

AN ACT to amend the first section of an act approved May 13, 1852, entitled "An act providing for the appointment of deputies for certain officers, and prescribing their duties and liabilities."

[APPROVED MARCH 3, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That said first section referred to in the title, which section reads as follows, to wit: "*Be it enacted by the General Assembly of the State of Indiana*, That every Clerk of the Supreme and

What section amended.

Who may appoint deputies.

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Circuit Court, State and County Auditor, State and County Treasurer, the Secretary of State, Prosecuting Attorney, Recorder, Sheriff of the Supreme and Circuit Court, Coroner, Surveyor, and Constable, may appoint deputies." Be so amended and re-enacted as to read as follows, to wit: *Be it enacted by the General Assembly of the State of Indiana*, That every Clerk of the Supreme or Circuit Court, or Court of Common Pleas, State and County Auditor, State and County Treasurer, the Secretary of State, Prosecuting Attorney, District Attorney, Recorder, Sheriff of the Supreme or Circuit Court, or Court of Common Pleas, Coroner, County and Township Assessor, Surveyor, and Constable, may appoint deputies.

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## CHAPTER XLII.

AN ACT to amend the fifth and sixth sections of an act entitled "An act to provide for the election of a Reporter, and a speedy publication of he decisions of the Supreme Court, and for the compensation of such Reporter," approved February 5, 1852.

[APPROVED FEBRUARY 28, 1855.]

Sec. 5 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section five of an act entitled "An act to provide for the election of a Reporter, and a speedy publication of the decisions of the Supreme Court, and for the compensation of such Reporter," approved February 5, 1852, which section reads as follows: "Whenever such printed report shall, without dividing the decisions made at any one term, make not less than six hundred pages, the Reporter shall add an index thereto, and cause the same to be bound, in good law binding, into a volume, to be styled 'Indiana Reports,' and shall forthwith deliver to the Secretary of State, for the use of the State, five hundred volumes thereof; and the Secretary of State shall cause the same to be distributed and disposed of as follows, to wit: Three copies to the Clerk's Office of the Circuit Court of each county within this State; two copies of which shall be for the use of the courts of such county, and the other copy for the use of the county library thereof, and one copy to each college in this State, and the residue of such volumes he shall cause to be deposited in the State Library." Be and it is hereby amended so

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as to read as follows: Whenever such printed report shall, without dividing the decisions made at any one term, make not less than six hundred pages, the Reporter shall add an index thereto, and cause the same to be bound, in good law binding, into a volume, to be styled "Indiana Reports," and shall forthwith deliver to the Secretary of State, for the use of the State, five hundred volumes thereof; and the Secretary of State shall cause the same to be distributed and disposed of as follows, to-wit: Three copies to the Clerk's Office of the Circuit Court of each county within this State; two copies of which shall be for the use of the courts of such county, and the other copy for the use of the county library thereof, and one copy to each college in this State, and the residue of such volumes he shall cause to be deposited in the State Library: *Provided*, that if (unless the decisions of a particular term should be divided) such report, including the index, would exceed six hundred and fifty pages, exclusive of the space occupied by the Reporter's notes, then the decisions of such particular term may be divided, so that the report, including the index and excluding the space occupied by the Reporter's notes, shall be not less than six hundred pages; which report shall then be indexed and bound, and five hundred copies delivered to the Secretary of State as aforesaid, for the use aforesaid. How amended. Proviso.

[SEC. 2.] *And be it enacted*, that section six of said act, which reads as follows: "The account of the Reporter shall be audited and paid out of any money in the treasury not otherwise appropriated, at the rate of three dollars for each bound volume, and for each stitched copy, as provided for in the fourth section of this act, at the same rate per printed page, estimating a bound volume at six hundred pages." Be and it is hereby amended so as to read as follows: The account of the Reporter shall be audited and paid out of any money in the treasury not otherwise appropriated, at the rate of one-half cent for each page of printed matter in each bound volume, and for each stitched copy, as provided for in the fourth section of this act, at the same rate per printed page. Sec. 6 amended. How amended.

[SEC. 3.] It is hereby declared that an emergency exists for the immediate taking effect of this act, and it shall therefore take effect and be in force from and after its passage. Emergency.

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## CHAPTER XLIII.

AN ACT to amend the tenth, twentieth, twenty-first, and twenty-fifth sections of an act entitled "An act providing for the election or appointment of Supervisors of Highways, and prescribing certain of their duties, and those of County and Township Officers," approved June 18th, 1852.

[APPROVED MARCH 3, 1855.]

Sec. 10 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section ten (10) of an act, entitled "An act providing for the election or appointment of supervisors of highways, and prescribing certain of their duties and those of county and township officers in relation thereto," which reads as follows, to-wit: "Any person may be exempt from working on highways by paying to the Township Treasurer seventy-five cents for each day he is liable to work thereon, and in such case he shall be receipted therefor by such treasurer; and on presenting such receipt to the clerk of the township, such clerk shall give to such person a certificate thereof, which, on being presented to the supervisor, shall exempt him from such labor during the time specified in such certificate in accordance to the sum paid. Such supervisor, within ten days after warning the hands liable to work in such district, shall bring suit in the name of the township in which such district is situate, against such persons as fail to work or pay over the commutation money therefor, before any justice of the township, and in such suit it shall only be necessary for an account stating the number of days which each of such persons so failed, and charging one dollar per day each therefor, to be filed as a cause of action: and in case of recovery by such supervisor, the judgment shall be rendered for one dollar for every day the defendant so failed, and costs of suit, and no stay of execution, or benefit of valuation or appraisement laws, shall be allowed on such judgment; and in case such supervisor shall fail to bring such suit, he shall forfeit and pay the sum of ten dollars, to be recovered before any justice of the township in the name thereof, upon complaint of the treasurer thereof, and all money so recovered under the provisions of this section shall be paid into the township treasury by such supervisor; and in case he shall fail to pay over such money within ten days after the receipt thereof, he shall be prosecuted by such treasurer under the Statute regulating the punishment of those guilty of neglect of official duty, and shall be liable to its penalty," be, and the

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same is hereby, so amended to read as follows, to-wit: Any person liable to work on highways may be exempted therefrom by paying to the supervisor of his road district one dollar for each day he is liable to work thereon, and in such case he shall be receipted therefor by the supervisor, which receipt shall be filed with the township clerk, which supervisor shall be authorized to employ some person or persons to work out such money at the rate of seventy-five cents per day on the roads of his district, or failing so to do, he shall pay over all such money into the township treasury. Such supervisor, within ten days after warning the hands liable to work in such district, shall bring suit in the name of the township in which such district is situate, against such persons as fail to work or pay over the commutation money therefor, before any justice of the township, and in such suit it shall only be necessary for an account stating the number of days which each of such persons so failed, and charging one dollar per day each therefor, to be filed as a cause of action; and in case of recovery by such supervisor, the judgment shall be rendered for one dollar for every day the defendant so failed, and costs of suit, and no stay of execution or benefit of valuation or appraisement laws shall be allowed on such judgment; and in case such supervisor shall fail to bring such suit, he shall forfeit and pay the sum of ten dollars, to be recovered before any justice of the township in the name thereof, and all money so recovered under the provisions of this section, shall be paid into the township treasury by such supervisor; and in case he shall fail to pay over such money within ten days after the receipt thereof, he shall be prosecuted by such treasurer under the Statute regulating the punishment of those guilty of neglect of official duty, and shall be liable to its penalty. How amended.

SEC. 2. Also section twentieth (20th), which reads as follows: "The Township Trustees, upon petition therefor of a majority of the qualified voters of any township, shall assess annually a road tax of not less than five nor more than twenty-five cents on the hundred dollars, to be levied according to the amount of real and personal property owned in said township subject to taxation, to be collected as provided in the bill defining the duties of Township Trustees: *Provided, however*, That the tax so assessed on real estate may be worked out in the road district in which such real estate lies, and the tax assessed on personal property in the district where the owner thereof resides, at the rate of seventy-five cents per day. The supervisor shall obtain a list of all road tax assessed on each individual, and his certificate for Sec. 20 amended.

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the amount worked out shall be taken by the treasurer of the county in payment of said tax," be amended to read as follows, to-wit: The Township Trustees may assess annually a road tax of not more than fifteen cents on the hundred dollars, to be levied according to the amount of real and personal property in said township subject to taxation, to be collected as provided in the bill defining the duties of Township Trustees: *Provided, however*, That the tax so assessed on real estate may be worked out in the road district in which such real estate lies, and the tax assessed on personal property in the district where the owner thereof resides, at the rate of one dollar per day.

How amended.

Sec. 21 repealed.

SEC. 3. Also, section 21st reads as follows, to-wit: "When a majority of such voters have so petitioned, such Township Trustees shall continue annually to assess a tax as herein provided each year, unless a majority of such voters shall, after the first year, at any time remonstrate against the same," that the same be, and is hereby, repealed.

Sec. 30 amended.

SEC. 4. That the 30th section of the act to which this is an amendment, which reads as follows: "The Board of Trustees may levy an additional tax for road purposes in said township, not to exceed one and three-fourth cents on each and every acre of land lying and being in the limits of said township subject to taxation, if a majority of the legal voters of said township there voting, shall vote at the April election in favor of said tax: *Provided, however*, That persons so assessed may work out the amount of said tax at the rate of seventy-five cents per day, under the direction of the supervisor in the district in which it lies," be, and the same is hereby, amended to read as follows: The Board of Trustees may levy an additional tax for road purposes in said township, not to exceed one and three-fourth cents on each and every acre of land lying and being in the limits of said township subject to taxation: *Provided, however*, That persons so assessed may work out the amount of said tax at the rate of one dollar per day, under the direction of the supervisor in the district in which it lies.

How amended.

All rights and causes of action, &c., pending under laws repealed hereby, to be prosecuted to judgment as if there was no repeal.

SEC. 5. All rights and causes of action, and prosecutions pending, accrued under former laws, repealed by this act, shall vest and continue and be prosecuted to final judgment as if said former laws were not by this act repealed.

Emergency.

SEC. 6. It is hereby declared that an emergency exists for the taking effect of this act, and that it shall be in force from and after its passage.

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# CHAPTER XLIV.

AN ACT to authorize the election of Church Wardens and Vestrymen, and defining their powers and duties.

[APPROVED MARCH 1, 1855.]

Wardens and Vestrymen of any parish, &c., elected under provisions of this act deemed a body corporate and politic, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Wardens and Vestrymen of any parish, or congregation of any church in this State, duly chosen according to the provisions of this act, in accordance with the rules and usages of said church, after a record of such election shall have been made as herein provided, shall be deemed a body corporate and politic, under the name of Wardens and Vestrymen of —— Church, ——, and by such name shall have power to contract and be contracted with, sue and be sued, with like effect as other persons and corporations.

Number to be elected not less than five nor more than nine Rector *ex-officio* member of vestry.

SEC. 2. The number to be elected under the provisions of this act shall not be less than three nor more than nine; but the Rector of any parish, church, or congregation, shall be *ex-officio* a member of the vestry of the same, according to the rules, regulations, and form of government of the church; and the members of the vestry so elected shall severally hold their offices until their successors are duly chosen, according to the rules and usages of said church.

Officers appointed to take, count, and make full list of votes, to make certificate within ten days after election and deposit in recorder's office.

SEC. 3. At the first and every subsequent election, the officers appointed to take, count, and make a full list of the votes given, shall, within ten days thereafter, deposit in the recorder's office of the proper county a certificate, setting forth the notice of such election, the time and place where the same was held, and the name of the person elected; and the recorder of such county shall immediately make a proper record of the same.

Vacancies filled by vestry.

SEC. 4. When any person so elected shall refuse to serve, or shall die, resign, or be removed from office, the remaining members of the vestry in which such vacancy may occur shall be authorized to appoint another person to fill the vacancy until the next regular election.

Name of church, parish, or congregation, may be changed, also number of members of vestry

SEC. 5. The peculiar name of any church, parish, or congregation, may be altered or changed, as also the number of members of any vestry, so that the number be not made more nor less than the number specified in this act; but the name chosen under the provisions of

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this section shall not be assumed until a record has first been made of the fact in the recorder's office of the proper county. Such change shall not affect the rights or liabilities of the vestry, parish, or congregation, or of other persons or parties.

Powers of Warden and Vestrymen.

SEC. 6. The Warden and Vestrymen of any church, parish, or congregation, may establish by-laws, to carry out the objects of their organization; they shall have power to receive conveyances of lots or lands, by purchase, gift, or otherwise, not exceeding one hundred acres, and to hold the same to their successors, or perpetuity, for the sole and exclusive benefit of such church, parish, or congregation, and for the uses declared in such conveyance or grant; they may erect and hold buildings for religious worship, for parsonages, or for educational or benevolent purposes; they may lay out and establish suitable grounds for a cemetery, or place for the burial of the dead, and after the plat thereof shall have been duly recorded in the recorder's office of the proper county, they shall enjoy all the privileges necessary for the preservation and protection of such cemetery; and they may appoint trustees or committees, to take charge of any school, hospital, or cemetery, which they may establish, and give direction concerning the management of the same; *Provided, however*, that such appointment shall not relieve or release such vestry, parish, or congregation, from any legal liability to which they may be subject.

Proviso.

Vestry may acquire and possess personal property not to exceed $5,000, and how appropriated.

SEC. 7. Such vestry, and their successors in office, may also acquire and possess, for the use of any such parish, church, or congregation, personal property not exceeding in value the sum of five thousand dollars, and may appropriate the same, and the income or interest thereof, and all other funds and incomes in their hands as such vestry, to the maintenance of religious worship, schools, libraries, or other purposes not inconsistent with the trust.

May sell, lease, or otherwise dispose of corporate property.

SEC. 8. Such vestry, to more effectually carry out the objects of this trust, may sell, lease, or otherwise dispose of their corporate property; and any conveyance thereof by such vestry, or a majority of them, in behalf of such church, parish, or congregation, shall vest in the purchaser of the same all the right, title and interest thereto; but the provisions of this section shall not be construed to affect any gift, bequest, or devise, to such parish, church, or congregation, or to the vestry thereof for its use, nor to defeat the intentions of the grantor, donor, or testator.

Provisions of this section not to be construed to affect any gift, &c., to defeat intentions of grantor, &c.

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SEC. 9. As between such parish, church, or congregation, the vestry thereof, and all persons claiming under them, and any person granting real estate thereto, and all persons claiming under him, the certificate of election provided for in the third section of this act, shall be conclusive evidence of the matters and things therein recited; and as between such parish, church, or congregation, the vestry thereof, and all persons claiming under them, and all other persons, it shall be presumptive evidence of such matters.

Certificate in third section referred to.

SEC. 10. Whenever any parish, church, or congregation, shall have elected a vestry in conformity to the provisions of this act, and the same shall have been dissolved by the death, resignation, or removal of its members, a majority of persons entitled to vote may, within five years after such dissolution, proceed to elect a new vestry, in conformity with the provisions herein contained; and such new vestry, after a record of the election shall have been made, as required in the third section of this act, shall have the same powers and may do and perform all other acts and things which by the provisions of this law a vestry may do and perform.

When vestry dissolved by death, removal, &c., how a majority of persons entitled to vote may proceed to elect new vestry.

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## CHAPTER XLV.

AN ACT supplemental to an act, entitled "An act regarding estrays and articles adrift," approved June 16th, 1852.

[APPROVED FEBRUARY 14, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That each and every appraiser appraising property as in the second section of the above entitled act provided, shall have for his services as such appraiser the sum of fifty cents, to be paid as other expenses in taking up estrays.



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## CHAPTER XLVI.

AN ACT to amend the 9th section of an act regarding estrays and articles adrift, approved June 16th, 1852, so as to entitle justices to receive mileage in making return of sale.

[APPROVED MARCH 1, 1855.]

Sec. 9 of act approved June 16, 1852, amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the 9th section of the above act which reads as follows: Such justice shall issue his warrant to some constable to sell the same at auction, giving ten days' notice in writing of the time and place of sale, describing the property to be sold; and such constable shall, within five days after such sale, return such order and proceeds of sale to said justice, retaining one dollar for his services therein, and said justice shall immediately pay over to the County Treasurer the proceeds of sale after deducting the proper amount to be paid to the taker up, as provided in this act, and fifty cents for his own fee, and shall take from the treasurer duplicate receipts, one of which he shall file in the office of the clerk of the Circuit Court, and the other with the County Auditor, be, and the same is, hereby amended so as to read as follows: "Sec. 9. Such justice shall issue his warrant to some constable to sell the same at auction, giving ten days' notice in writing of the time and place of sale, describing the property to be sold; and such constable shall, within five days after such sale, return such order and proceeds of sale to said justice, retaining one dollar for his services therein, and said justice shall immediately pay over to the County Treasurer the proceeds of sale, after deducting the proper amount to be paid to the taker up, as provided in this act, fifty cents for his own fee, and five cents for every mile that it is necessary for him to travel in making said return, and shall take from the treasurer duplicate receipts, one of which he shall file in the office of the clerk of the Circuit Court, and one with the County Auditor."

How amended.

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## CHAPTER XLVII.

AN ACT to authorize the successors of Executors and Administrators to make sales and conveyances of realty under orders of sale procured by their predecessors.

[APPROVED FEBRUARY 23, 1855.]

When order for sale of real estate by application of executor or administrator is made, or may hereafter be made if such executor or administrator has died or resigned, successor may make sale subject to same rules and regulations, and it shall not be necessary to revive order.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases where an order of sale of real estate shall heretofore have been made, or shall hereafter be made, on the application of any executor or administrator in any decedent's estate by any of the Courts of this State, and such executor or administrator has or may have died or resigned, or has been or hereafter may be removed, that their successor or successors may, and they are hereby, authorized to make sale and conveyance of any such real estate, upon the same terms and conditions, and subject to the same rules and regulations as were or hereafter may be applicable to said executor or administrator who obtained such order of sale, but such successor shall give bond to account for the proceeds of such sales in the same manner as he or they should have done if said order had been obtained by them. And it shall not, in any case be necessary to revive said order of sale, but said successor shall carry on and conclude the proceedings upon such order in the same manner as said former administrator or executor should have done.

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## CHAPTER XLVIII.

AN ACT declaring Express Companies to be common carriers, and providing for the safety of articles entrusted to their care.

[APPROVED MARCH 5, 1855.]

Declared common carriers.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all persons, association of persons, or companies, usually called Express Companies, regularly engaged, or hereafter to be engaged in the business of carrying or transporting packages or parcels of bank notes, coin, merchandise, or other articles, over or upon any of the railroads, rivers, canals, or other thoroughfares in this State, and receiving, or agree-

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ing to receive, compensation for such services, shall be, and they are hereby declared common carriers, and shall be subject to all the liabilities to which common carriers are subject according to law.

Company shall file in Recorder's office of proper county a statement showing full name of every member, place of residence, amo'nt of capital; also, agreement that legal process served upon agent shall be deemed as good service upon company.

SEC. 2. Such persons, associations or companies, shall file in the office of the Recorder of each county in which their business is conducted, or where they may have an agency or office, a statement showing the full name of every such person and member of every such association or company, and also his or her proper place of residence, and the amount of capital employed in such business; and also an agreement that legal process served upon any agent of said person or persons, association, or company, in such county, shall be deemed and taken as good service upon such person or persons, association or company; and it shall be the duty of the Recorder to make a record of the same, and also to publish in a newspaper of the county, if there be a newspaper, or otherwise to post up in three of the most public places in the county along the proper route or line, a full and complete copy of such statement and agreement, which shall be duly certified by said Recorder. Such statement shall be signed by the persons and members of such associations or companies, and shall be verified by oath or affirmation before the same is admitted to record. The Recorder shall be entitled to receive and demand from the person or persons, association or company, for the service herein required, the sum of five dollars. Until such notice be given it shall not be lawful for any person, association, or company, to transact the business named in the first section of this act in such county; and any person, member of any association or company, or any agent thereof, violating the provisions herein contained, shall, for every such offense, be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars, in the name of the treasurer of the county: *Provided*, That nothing contained in this section shall be construed to affect the rights or privileges of persons, citizens of this State, engaged in the ordinary transportation of merchandise, produce, or other articles, in wagons or other conveyances.

Duty of Recorder, and his fee.

Company or agents violating this act deemed guilty of a misdemeanor and penalty.

Proviso.

Railroad companies and owners and masters of steam and canal boats not exempted from liabilities of common carriers.

SEC. 3. Railroad companies and the owners and masters of steamboats, canal boats, or other vessels, shall not be exempted from the liabilities of common carriers by the operation of this act, but may be proceeded against, at the option of the claimant, in case of any loss or damage where the railroad, steamboat, canal boat,

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or other vessel shall have been employed in the conveyance of the messenger, or other agent, of the person or persons, associations or companies, named in the first section of this act.

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## CHAPTER XLIX.

AN ACT regulating the fees of officers, and repealing former acts in relation thereto.

[APPROVED MARCH 2, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the persons and officers in this act named, shall be entitled to receive for their services the fees allowed and set out in this and the subsequent sections of this act, and no others, except otherwise provided by law. Fees of Clerk of Supreme Court.

CLERKS' FEES—FEES IN THE SUPREME COURT.

| | |
|---|---|
| Every writ or process, under seal | $1 00 |
| Every process or summons, not sealed | 50 |
| Endorsing on writ of error, or summons under writ of error, that [it] is to operate as a supersedeas | 05 |
| Filing each paper in a case | 05 |
| Copy of a record or other paper, per sheet of one hundred words, or if the whole number of words in such copy be less than one hundred | 12½ |
| Discontinuance of retraxit | 10 |
| Bringing a particular record into court | 25 |
| Entering satisfaction of record | 10 |
| Receiving and entering verdict | 10 |
| Entering defendant's appearance | 05 |
| Entering on docket | 15 |
| Entering judgment | 20 |
| Swearing each witness, constable or bailiff | 05 |
| Making up and entering a complete record after a judgment, per sheet of one hundred words, | 12½ |
| Searching the record within one year | 10 |
| Every year back | 05 |
| On confession of error, judgment on default | 25 |
| Continuing cause | 20 |
| Every issue joined | 25 |

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| | |
|---|---|
| Entering any principal motion | 10 |
| Certificate and seal | 50 |
| Every bond | 50 |
| Making out advertisement for non-resident defendant | 50 |
| Every one hundred words contained in any writing required by law to be done by him, and for which there is no specific allowance, | 10 |
| For recording deeds or other writings, when required, per one hundred words | 10 |
| Endorsing on supersedeas or writ of error directed [direction] to the clerk of the inferior court | 25 |
| Docketing judgment | 15 |
| Taking bail for stay of execution | 25 |
| Issuing fee bill for fees not his own | 50 |

For services not specifically provided for in this act, such clerk shall be entitled to the same fees as are by law allowed for similar services.

CLERKS' FEES IN THE CIRCUIT AND COMMON PLEAS COURTS.

Clerks' fees in Circuit and Common Pleas Court.

SEC. 2. The Clerks' fees in the Circuit and Common Pleas Courts, shall be as follows, to wit:

| | |
|---|---|
| For every writ, summons, or other process | 50 |
| Entering action | 05 |
| Filing each paper | 05 |
| Copy of any paper or record when required, per sheet of one hundred words | 12½ |
| Entering every motion | 10 |
| Entering every order and reading the same | 10 |
| Entering every rule | 12½ |
| Entering dismissal of a cost | 12½ |
| Bringing a record into court | 10 |
| Entering satisfaction of record | 15 |
| Receiving and entering a verdict | 10 |
| Entering judgment | 20 |
| Entering defendant's appearance | 05 |
| Every writ of inquiry | 12½ |
| Entering on docket | 15 |
| Empanneling and swearing each jury | 12½ |
| Taxing fees and fee books, per one hundred words | 12½ |
| Administering each oath in court | 05 |
| Making complete record, per one hundred words, | 10 |
| Searching a record within one year | 10 |
| Every year back | 05 |

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| | |
|---|---|
| Entering rule of court and appointing referees, | 20 |
| Entering every continuance of a cause | 20 |
| Every issue joined | 25 |
| Making out notice for non-resident defendant | 50 |
| For marriage license and recording certificate of marriage | 1 00 |
| Recording certificate of an estray | 50 |
| Taking bail for stay of execution | 25 |
| Issuing fee bill | 50 |
| Filing and recording transcript as a lien on real estate | 50 |
| For every one hundred words of record transcribed in a writ of *scire facias* or *venditioni exponas* | 12½ |
| Making examination, registering and certifying to each negro or mulatto, as required by law, to be paid out of the county treasury, for each, | 1 00 |
| Each certificate to a person desirous of borrowing school funds, as required by the school laws to be paid by such person | 25 |
| For each affidavit | 25 |
| For each certificate and seal | 50 |
| For each writ of *habeas corpus* issued in vacation | 50 |

SEC. 3. The Clerk's fees in criminal proceedings shall be as follows, to wit: Clerk's fees in criminal proceedings.

CLERKS' FEES IN CRIMINAL PROCEEDINGS.

| | |
|---|---|
| For taking a recognizance | 40 |
| Every writ or other process | 50 |
| Entering defendant's appearance | 05 |
| Making up record, per one hundred words | 12½ |
| Copy of record, when required, per sheet of one hundred words | 12½ |
| Every order or rule of court | 12½ |
| Filing each paper | 05 |
| Entering panel and swearing each jury | 25 |
| Swearing each witness or bailiff | 05 |
| Receiving and entering verdict | 12½ |
| Entering defendant's confession | 20 |
| Discharging a recognizance | 25 |

For services in criminal cases not specifically provided for, the same fees as are allowed for similar services in civil cases. Clerk's fees in relation to estates and guardianship.

SEC. 4. The clerk's fees in relation to estates and guardianship, shall be as follows, to wit:

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CLERKS' FEES IN RELATION TO ESTATES AND GUARDIANSHIP.

| | |
|---|---|
| For all copies, per one hundred words | 10 |
| Administering an oath | 05 |
| For each writ required by law | 50 |
| For letters of administration or guardianship, and recording the same | 1 00 |
| Proving a will and indorsing a certificate thereon | 1 00 |
| Qualifying administrator, executor, or guardian, taking bond and writing certificate | 1 00 |
| Proving codicil and indorsing certificate | 1 00 |
| Recording inventory or account, per one hundred words | 10 |
| Giving each notice required by law | 50 |
| Entering each order and reading the same | 10 |
| Recording will, per one hundred words | 12½ |
| For examining each settlement or report of an administrator, executor, or guardian | 50 |
| For each affidavit | 25 |
| For entering each motion | 10 |
| For entering on appearance docket the title of an estate | 12½ |
| For entering continuance | 20 |
| For certificate and seal | 50 |
| Filing each paper | 03 |
| For making up entries and records not herein provided for, each one hundred words | 12½ |
| For every trial | 25 |

For all service not specifically provided for in this act, the clerk shall be allowed the same fees as are by law allowed for similar services.

SEC. 5. The sheriff's fees shall be as follows, to wit:

SHERIFF'S FEES.

| | |
|---|---|
| For serving a writ and taking into custody | 50 |
| For every mile traveled in going and returning to serve process | 05 |
| Taking bail | 25 |
| Taking recognizance and drawing it up in form, | 50 |
| Returning every writ | 10 |
| Summoning a jury (with mileages above) | 75 |
| Executing a writ of possession | 1 00 |
| Calling a jury in each cause | 10 |
| For every person committed to jail | 50 |
| Discharging every person out of jail | 40 |
| Holding an inquisition, drawing up and returning the same | 1 50 |

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| | |
|---|---|
| Serving a summons | 30 |
| Attending a prisoner before a judge when surrendered by his bail and receiving the prisoner into custody | 50 |
| Boarding each prisoner per day | 50 |

Selling property on execution, a commission of five per centum on the first three hundred dollars, and two per centum on any excess above that amount; but when the money is paid to him without sale, one-half commission only shall be allowed.

| | |
|---|---|
| Taking a valuation of lands | 75 |
| Taking a replevin bond | 75 |
| Serving a *capias ad satisfaciendum* | 1 00 |
| Levying on property and advertising the same without sale | 1 00 |

Mileage as above, when no money is made, and no other fee or reward shall be allowed on executions, except for the expense of keeping property.

| | |
|---|---|
| Making a deed of sale of real estate on execution, | 2 00 |
| Serving a writ of attachment | 50 |
| Returning writ of attachment, | 25 |

Sheriff's fees. Extra allowances of clerks and sheriff.

Sheriffs shall not be entitled to any fees for service performed by their bailiffs when such bailiffs are receiving pay by the day from the county at the time such services are rendered.

For postage paid on letters received from, or directed to, the clerk of the Supreme Court, inclosing process issued by said Court, the amount thereof to be returned as an item of charge.

When the sheriff is provided by the County Commissioners with a dwelling room in the building containing the jail, he shall not be allowed exceeding forty cents per day for boarding each prisoner.

In criminal cases not provided for the like fees as for services in civil cases.

For collecting fee bills six per centum on the amount thereof.

| | |
|---|---|
| For taking convict to the State Prison, and all expenses incident to the same, per mile, for going and returning, to be paid out of the State Treasury, | 15 |
| For each additional convict, taken at the same time, per mile, | 10 |

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For taking a prisoner to another county such fee as the board doing county business in the county whence the prisoner was taken, may, in their discretion, allow out of the funds of said county.

For each commitment and discharge for a prisoner, under any city authority,..... 20

Clerks and sheriffs shall be entitled to receive such reasonable allowance for extra services as the Board of County Commissioners may think right and proper, to be paid out of the County Treasury.

Fees of Secretary of State.

SEC. 6. The fees of the Secretary of State shall be as follows, to-wit:

FEES OF THE SECRETARY OF STATE.

| | |
|---|---|
| For recording each bond,..... | $2 25 |
| For all copies of records, laws, and papers, per 100 words,..... | 10 |
| For each certificate and seal,..... | 50 |

Such fees to be paid by the persons for whom the services are rendered: *Provided, however*, Such Secretary shall in no case be entitled to any fees above provided, except when the services rendered are for a private person and not for the State, or county, or officer of either, except Notaries Public.

For issuing commission to a Notary Public, and recording his bond,..... 75

Recorders' fees.

SEC. 7. Fees of County Recorders shall be as follows, to-wit:

RECORDERS' FEES.

| | |
|---|---|
| For recording deeds and mortgages, and the acknowledgment thereof,..... | $1 00 |
| For certificate, not under seal, and acknowledgment of deeds and mortgages,..... | 25 |
| For certificate and seal,..... | 50 |
| For recording all other instruments and giving certified copies of any record, for each 100 words,..... | 10 |
| For recording town plats, the first 100 lots or under,..... | 2 00 |
| Each additional lot,..... | 1 |

For all services not specifically provided for in this

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act, the recorder shall be allowed the same fees as are by law allowed for similar services.

The recorder is authorized to issue fee bills for his own fees according to the laws regulating the issuing of fee bills.

SEC. 8. The County Auditors' fees shall be as follows, to-wit: County Auditors' fees.

COUNTY AUDITORS' FEES.

| | |
|---|---|
| For all records, copies, and other writings, per each 100 words, (counting three figures as one word), | 10 |
| Filing each paper, except county orders and papers returned by Township Assessors, | 5 |
| Each county order, | 5 |
| Tax certificate, | 25 |
| Each record of an agreement, | 25 |
| Each acknowledgment of a deed, to be paid by the person for whom the service is rendered, | 25 |
| Assignment of tax and school certificate, and recording the same, to be paid by the assignor, | 25 |
| Administering an oath, | 5 |
| Each tax deed, to be paid by the person receiving such deed, | 1 00 |
| Each special constable's bond, oath, and registration of the same, to be paid by such constable, | 1 00 |
| Each certificate and seal, to be paid by the person requesting the same, | 50 |
| Each mortgage to secure a loan of school fund, to be paid by the mortgagor, | 50 |
| For each tract or parcel of land sold for taxes, | 10 |
| Writing any affidavit necessarily connected with the business of his office, and swearing the affiant thereto, | 25 |
| Each merchant's or other license, | 50 |
| Registering receipt given by the treasurer for money, | 5 |
| Each bond taken in the discharge of his official duties, | 30 |
| Each quietus for land redeemed, to be paid by the person redeeming, | 20 |
| Each quietus for treasurer's receipt, | 5 |
| Each writ, notice, or process required to be under seal, | 50 |
| If not under seal, | 25 |
| Each day engaged in the County Board of Equalization, | 1 50 |

In trials before the Board of County Commissioners,

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the Auditor shall be entitled to the same fees as are allowed clerks of the Circuit Court for similar services, when no specific fee is fixed in this act which shall be paid by the county, or other person, as the right of the case may be, as such Board or Court may order.

County Treasurers' fees.

SEC. 9. The County Treasurers' fees shall be as follows, to-wit:

COUNTY TREASURERS' FEES.

For collecting taxes shall be eight per cent. on the first one thousand dollars.

Seven per cent. on the amount between one and two thousand dollars.

Six per cent. on the amount between two and three thousand dollars.

Five per cent. on the amount between three and four thousand dollars.

Four per cent. on the amount between four and five thousand dollars.

Three per cent. on all sums over five thousand dollars and under fifteen thousand dollars.

On all sums over fifteen thousand dollars two per cent.

Two and a half per cent. for securing and paying out all the moneys other than tax and school fund.

For every mile traveled in going and returning to make settlements with the Auditor of State and Treasurer of State, and to make deposits of the State revenue, under the instructions of such Treasurer and Auditor, eight cents.

For each tract or parcel of land sold for taxes, ten cents.

County Commissioners' fees.

SEC. 10. The County Commissioners' fees shall be as follows, to-wit:

COUNTY COMMISSIONERS' FEES.

For each day's attendance as a member of the County Board, or of the Board of Equalization, each Commissioner shall receive ..... $3 00

County Surveyors' fees.

SEC. 11. The County Surveyors' fees shall be as follows, to-wit:

COUNTY SURVEYORS' FEES.

For every corner by him located or perpetuated, $1 00
For every line run in dividing and running up sections or parts of sections, per mile, ..... 1 00

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| | |
|---|---|
| When more than four corners are to be perpetuated at the same time, in the same section, for each additional corner, only | $ 50 |
| For going to and returning from a survey, per mile, | 5 |
| Attending Court, per day, | 1 25 |
| Surveying a town lot, | 1 00 |
| Every additional lot at one time, | 25 |
| Running a division line one mile or under, | 1 00 |
| For every survey by him plainly bounded as the law directs, and for a plat of such survey, after the delivery of such plat, where the survey shall not exceed over four hundred acres, | 3 00 |
| For every hundred acres of land contained in one survey, above four hundred acres, | 25 |
| Surveying an acre of land or under, | 1 50 |
| Services in locating roads by authority of law, per day, | 2 50 |
| Copy of plat of land or certificate of survey, | 25 |
| Making out a complete report of survey made of any road, including field notes, &c., | 50 |
| If such survey exceed five miles, | 1 00 |
| In all surveys made by authority of the Board of County Commissioners or Township Trustees, chain-bearers and ax-men shall receive per day, | 1 00 |

SEC. 12. The Prosecuting Attorneys' fees shall be as follows, to-wit: Prosecuting Attorneys' fees.

PROSECUTING ATTORNEYS' FEES.

| | |
|---|---|
| Docket fee in Court of Common Pleas on a plea of guilty, | 2 00 |
| Docket fee before a justice of the peace, | 2 50 |
| Docket fee in divorce cases, when successful, | 5 00 |
| Docket fee upon forfeited recognizances when he prosecutes to final judgment against the defendant, | 5 00 |
| Docket fee in cases in the Circuit Court on a plea of guilty, | 2 50 |
| Docket fee in cases in the Circuit Court on plea of not guilty, | 5 00 |
| Docket fee in cases in the Court of Common Pleas on plea of not guilty, | 4 00 |
| In all other cases, not specified, when the Prosecuting Attorney is required to prosecute or defend, the fees shall be, in the Circuit Court and in the Court of Common Pleas, | 5 00 |

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Constables' fees in civil cases.

SEC. 13. That Constables' fees in civil cases shall be as follows, to-wit:

CONSTABLES' FEES IN CIVIL CASES.

| | |
|---|---|
| For serving a summons or warrant, on each person named therein, | $ 25 |
| For every mile travelled in going and returning to serve process or subpœna | 05 |

When two or more are named in such process, mileage shall be allowed for the distance necessarily traveled.

| | |
|---|---|
| A copy of the process left at the defendant's residence | 25 |
| Serving subpœna for each person therein named, | 20 |
| Returning each writ | 10 |
| Bail bond | 25 |
| Serving execution and mileage as above | 25 |
| Commitment to prison | 50 |
| Sale of goods when the amount of goods does not exceed six dollars | 25 |

On all sums above six dollars, five per centum.

On all moneys collected on execution without sale, half of the above commissions.

| | |
|---|---|
| Returning execution | 10 |
| Summoning a jury in any case | 50 |
| Attending jury trial | 35 |
| Posting up advertisement of sale | 30 |

Constables' fees in criminal cases.

SEC. 14. Constables' fees in criminal cases shall be as follows, to wit:

CONSTABLES' FEES IN CRIMINAL CASES.

| | |
|---|---|
| For serving a warrant on each person named therein | 50 |
| Serving subpœna | 20 |
| Traveling to serve process, per mile | 05 |
| Attending examination or trial of a person charged with a crime or misdemeanor | 25 |
| If more than one, an addition for each of | 10 |
| Commitment of each person to prison | 50 |
| And for each mile necessarily traveled | 05 |

For services not herein enumerated, the same fees as in civil cases.

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SEC. 15. That the fees of justices of the peace shall be as follows, to wit: Fees of Justices of the Peace.

FEES OF JUSTICES OF THE PEACE.

| | |
|---|---|
| For each summons or capias | $ 25 |
| Every examination on a criminal information, on oath | 50 |
| Swearing each witness | 05 |
| Every warrant in a criminal case | 25 |
| Every trial on complaint for unlawful detention of lands or tenements | 1 00 |
| Issuing every attachment for contempt | 25 |
| Taking an acknowledgement of a deed or power of attorney | 25 |
| Order for relieving a pauper | 25 |
| Order for removing a pauper | 50 |
| Certifying description of a boat adrift, or an estray | 25 |
| Warrant of certificate of appraisement | 25 |
| Taking and certifying depositions | 25 |
| And for each one hundred words therein contained more than one hundred | 10 |
| For each process required by law and not herein enumerated | 20 |
| For every writing or record not herein provided for, every one hundred words | 12½ |
| Every trial | 25 |
| For certifying copies of all proceedings, for each one hundred words | 12½ |
| Entering continuance | 10 |
| Every bond or recognizance | 25 |
| Every venire for summoning jury | 25 |
| Each transfer of judgment | 25 |
| Issuing execution | 25 |
| Subpœna for witnesses, to include all that are called for at one time | 25 |
| Administering each oath required by law and not herein enumerated | 05 |
| Rendering every final judgment | 25 |
| Trial of right of property and judgment | 50 |
| Swearing jury | 10 |
| Making up docket, for every one hundred words, | 12½ |
| Each writ of attachment against property | 50 |
| Making return of fines to the court for each mile necessarily traveled, to be paid by the county, | 05 |
| Transmitting papers in cases of appeal | 25 |
| Writing an affidavit | 25 |

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Jurors' fees

SEC. 16. That the fees of jurors shall be as follows, to wit:

JURORS' FEES.

| | |
|---|---|
| Every juror shall receive, in the Circuit Court or Court of Common Pleas, to be paid out of the county treasury, per day | $1 25 |
| Every grand juror sworn, for his services as such, to be paid by the county per day | 1 25 |
| Every such grand or petit juror, for each mile traveled in going to and returning from court, shall receive, to be paid by the county | 04 |
| Every juror for attending a trial per day, before a justice of the peace, to be taxed with the costs of suit | 50 |
| Every juror in each action in the Supreme Court, to be taxed against the party failing in the suit | 1 50 |
| For every mile actually traveled in going to and returning from court | 05 |

Witnesses' fees in Supreme, Circuit, and Common Pleas Courts.

SEC. 17. That witness fees in the Supreme and Circuit Courts, and Courts of Common Pleas, shall be as follows, to wit:

WITNESS' FEES IN THE SUPREME AND CIRCUIT COURTS, AND COURT OF COMMON PLEAS.

| | |
|---|---|
| To every witness attending in his own county on trial, per day | $1 00 |
| To every witness attending from another county, per day | 1 00 |
| To each witness subpœnaed in the county and detained from another county, each day | 1 00 |
| For every mile necessarily traveled in going to and returning from court, from his place of residence, each witness shall receive | 04 |

Witnesses' fees before a Justice.

SEC. 18. That witness' fees before a justice, shall be as follows, to wit:

WITNESS' FEES BEFORE A JUSTICE.

| | |
|---|---|
| Attending per day | 50 |

Witnesses shall claim their fees on the day of trial, before the judgment docket is signed by the justice.

Fees of Notaries Public.

SEC. 19. That fees of notaries public and commissioners shall be as follows, to wit:

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FEES OF NOTARIES PUBLIC AND COMMISSIONERS.

| | |
|---|---|
| For each certificate and seal | $ 50 |
| Taking depositions or other writing, for each one hundred words | 10 |
| Administering an oath, | 10 |
| For each protest, | 50 |
| Each notice thereof, | 25 |
| When required, for each 100 words in recording or copying such protest, | 10 |
| Taking acknowledgment of deed, mortgages, powers of attorney, or other written instruments, | 25 |

Coroners' fees.

SEC. 20. That the fees of Coroners shall be as follows, to-wit:

CORONERS' FEES.

| | |
|---|---|
| Impanneling and swearing a jury and witnesses and making and returning inquisition for the view of each body, | 5 00 |

Township Trustees', Clerks', and Treasurers' fees.

SEC. 21. That the fees of Township Trustees, Clerks and Treasurers' fees shall be as follows, to-wit:

TOWNSHIP TRUSTEES', CLERKS', AND TREASURERS' FEES.

| | |
|---|---|
| For each day's service they shall be allowed to be paid out of the township fund, | 1 00 |

Jurors' fees when impanneled by Coroner.

SEC. 22. In all cases hereafter when jurors are impanneled by any Coroner for the purpose of holding an inquest, each juror shall be entitled to seventy-five cents for each day he shall serve as such, to be certified by the Coroner.

Fees of inquest to be paid out of the property of the deceased person.

SEC. 23. All fees of inquests shall be paid out of the property of the deceased person, if there be so much belonging to such deceased, if not, then out of the county treasury.

Clerks of Supreme, Circuit, and Common Pleas Courts to keep a table of their fees posted in some conspicuous place.

SEC. 24. The Clerk of the Supreme and Circuit Courts and Court of Common Pleas shall post up in some conspicuous place in their offices, and there keep, a table of their fees, and on failure so to do, shall have no right to demand or receive any fees for services rendered by them as such clerk during the time such tables are not so posted up.

Fees in criminal prosecutions to be paid by the person convicted.

SEC. 25. In all criminal prosecutions, when the person accused shall be acquitted, no costs against such person, nor against the State or county, for any services



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rendered in such prosecution by any clerk, sheriff, coroner, justice of the peace, constable, or witness, but in all cases of conviction such fees and costs shall be taxed and collected as in other cases, from the person convicted.

Witnesses' fees when to be claimed. Clerks of supreme, circuit, and common pleas courts shall have power to issue fee bills.

SEC. 26. Witnesses shall claim their fees at each term as they attend, and not afterwards, and clerks shall note such fees at the time they are claimed; and the sheriffs and coroners are hereby required to indorse upon all process directed to them their fees at full length, and all clerks shall, in a book to be kept for that purpose, enter all the fees as the services are rendered; and the clerk of the Supreme Court, or of any Circuit or Common Pleas Court, shall have power, while he is in office, to issue fee bills from the books aforesaid, and the records and papers on file in his office, for services rendered by himself or for services rendered by any other person in said Court, at any time after such services are rendered.

SEC. 28 [27]. No action shall be maintained on any fee bill due to any person so long as the party owing shall reside within the jurisdiction of the Court issuing the same.

If question arise about any bill of costs, court, judge, or justice to determine rights of parties thereto. When a claim for official services appears, and law does not fix compensation, court, judge, or justice to fix same.

SEC. 29 [28]. Each Circuit Court, or Court of Common Pleas, or a judge thereof in vacation, or a justice of the peace, as the case may be, if a question arise concerning any bill of costs, or if the person charged therewith shall allege payment thereof, shall, upon motion of any party interested therein, and reasonable notice thereof, determine according to the rights of the parties thereto and make orders accordingly; and whenever there shall appear a claim for official services rendered by any officer of a court of justice, and there does not appear to be any fees fixed by law as a compensation therefor, the court, judge, or justice, on application, shall make an order specifically fixing the allowance for such claim.

After five years from termination of suit no fee bill shall issue until party claiming for services rendered shall give five days' notice to party charged, &c.

SEC. 30 [29]. After five years from the termination of any suit in which services have been rendered no fee bill shall issue for such services until the party claiming the same shall give five days' notice in writing to the party charged to appear before the Court in which the fees accrued, or the judge thereof in vacation, or a master in chancery, or a justice of the peace, as the case may be, and show cause against the issuing thereof, and then if no sufficient cause be shown, the court, judge, master in chancery, or justice of the peace, as the case may be, shall order the said fee bill to be issued.

Board of commissioners shall furnish the necessary records, &c., to

SEC. 31 [30]. The Board of Commissioners of each county shall furnish the necessary record books, fuel, and stationery for the offices of the Auditor, Treasurer, Re-

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corder, and the clerks of the Circuit and the Common Pleas Court of their respective counties at the expense of such county, and shall also provide safe and suitable offices for such officers.

county officers, and safe and suitable offices.

SEC. 32 [31]. The Secretary, Auditor, and Treasurer of State shall furnish, at the expense of the State, the necessary record books and office rent and stationery for the offices of the Secretary, Auditor, and Treasurer of State and Clerk of the Supreme Court, and fuel and stationery for the use of the General Assembly.

Secretary, Auditor, and Treasurer of State to furnish necessary record books, &c., for their offices and clerk of supreme court, and fuel and stationery for General Assembly.

SEC. 33 [32]. Every fee bill shall be made out in words at full length and figures, with a statement of each item in plain phraseology, and each officer may, at the foot of any of his fee bills, make out a mandate to the proper officer commanding him to collect the same, as required by law, and make due return thereof, and shall sign the same, and from the time such fee bill shall come into the hands of such collecting officer, it shall have the force and effect of an execution from the Circuit Court, and shall be treated as such, and shall operate as a lien upon the real and personal estate of the debtor, except as to the fee bills of justices of the peace, constables, and township officers, which shall be treated as, and shall have the force and effect of an execution issued by a justice of the peace: *Provided*, No fee bill shall be so collected unless issued in the manner above provided, within six years next after the services were rendered.

Fee bill to be made in words at full length, and figures, with statement of each item in plain phraseology, &c.

Proviso.

SEC. 34 [33]. Any successor of such officer may issue the fee bills of his predecessor or predecessors in office in a manner provided for in the foregoing section: *Provided*, Such fee bills are issued within six years next after the services are rendered. Any clerk of a Circuit Court or Court of Common Pleas may issue the fee bills of the sheriff, or former sheriffs of his county, and any justice of the peace may issue the fee bills of a constable or former constable of his township: *Provided*, The same is done in the manner and within the time specified in the foregoing section.

Successors in office to issue fee bills of predecessors in manner provided in section above. Proviso.

Proviso.

SEC. 35 [34]. All fees collected by any officer under the provisions of an act, entitled "An act to amend an act entitled an act regulating the fees of officers," approved March 2d, 1853, be, and the same are hereby, legalized.

Collections of fees under certain act legalized

SEC. 36 [35]. The act, entitled "An act regulating the fees of officers," approved June 16th, 1852, and all former laws in conflict with this act, or any part of it, be, and the same are hereby, repealed.

Repeal.

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## CHAPTER L.

AN ACT to provide for issuing fee bills and executions against sureties on appeal bonds in the Supreme Court.

[APPROVED MARCH 1, 1855.]

Clerk to issue fee bills or executions against the principals and sureties of appeal bonds, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases heretofore or which may be hereafter brought to the Supreme Court of this State, by appeal, in which an appeal bond has been or hereafter may be executed by the plaintiff or plaintiffs in such appeal, it shall be the duty of the clerk of said court to tax all fees and costs for which said plaintiff or plaintiffs shall be liable in said court, against the principals and sureties on such bonds, as though they were co-plaintiffs or co-defendants; and to issue fee bills, or executions, for the collection of such fees or costs and executions; to collect all judgments which may be rendered by said court against such plaintiffs, against such principals and sureties jointly.

Clerk to indorse on the fee bill or execution which the principal and which the surety in said writ.

SEC. 2. It shall be the duty of the clerk of said court to indorse on such writ, before delivering the same to the proper officer, which of said parties is the principal, and which is the surety in said writ; and it shall be the duty of the officer into whose hands the same may come, first to levy upon the property of the principal in said writ, if sufficient can be found, if not, he shall then, without delay, levy the same upon the property of the surety or sureties, and proceed to sell the same as in other cases.

No writ shall issue for the collection of any such fees or costs after five years, &c.

SEC. 3. No writ, as above provided, shall issue for the collection of any such fees or costs, after five years from the time at which such cause was decided in the Supreme Court.

Emergency.

SEC. 4. There being an emergency for the immediate taking effect of this act, the same shall be in force from and after its passage and publication in the Indiana State Journal and Indiana State Sentinel.

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## CHAPTER LI.

AN ACT authorizing county Recorders and county Surveyors to issue fee bills.

[APPROVED MARCH 5, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That recorders and county surveyors may, at any time after their fees shall become due, make out their fee bills, stating each item particularly, which shall be signed by said recorder or surveyor.

SEC. 2. Such fee bill, when so issued, shall be directed and delivered to the sheriff or coroner, whose duty it shall be to proceed to collect and return said fee bills, in the same manner that executions are collectable and returnable.

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## CHAPTER LII.

AN ACT to amend sections first, second and seventh, of an act to establish and regulate ferries, approved June 17th, 1852, so as to extend to any person or persons, or corporation, who may own or hold, by lease, land on any creek or river, the right to have a public ferry, and to prevent a ferry lying in counties from being assessed with a double tax.

[APPROVED FEBRUARY 10, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That sections first, second, and seventh, of an act entitled "An act to establish and regulate ferries," approved June 17th, 1852, which is in the words following, to wit: "Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That any owner of land on any creek or river may have a public ferry established across such creek on application to the board of commissioners of the proper county, on satisfactory proof of his having set up written notices, in three of the most public places in the county, thirty days before the meeting of such board; but no ferry shall be established within one mile below or above an established ferry, unless where public convenience required it. Sec. 2. When any river or creek shall be the boundary between two counties, any person holding

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lands on either side of said river or creek shall wish to have a public ferry across the same, he shall apply to the board of county commissioners for the county in which his lands lie, who are hereby authorized to establish such ferry, from the land of such applicant to the opposite side; and in such case a certified copy of the order establishing such ferry shall be transmitted to the auditor of the county on such opposite side, at the expense of such applicant, and thereupon each county assess a tax upon such ferry, as in other cases. Nothing in this act shall be so construed as to make any person liable for crossing his own property or that of any other, unless he receives pay for the same. Sec. 7. Before the issuing of license to any person to keep a ferry, he shall execute to the State of Indiana a bond, in the penal sum of five hundred dollars, with surety to the acceptance of the county auditor, conditioned for the keeping such ferry according to law, which bond shall be filed in the auditor's office." Be and the same is hereby amended so as to read as follows: Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That any person or persons, or corporation, who may own or hold by lease, land on any creek or river, may have a public ferry established across such creek or river, on application to the board of commissioners of the proper county, on satisfactory proof of their having set up written notices, in three public places in the county, thirty days before the meeting of such board; but no ferry shall be established within one mile below or above an established ferry, unless where public convenience requires it. Sec. 2. When any river or creek shall be the boundary between two counties, any person, persons, or corporation, holding lands on either side of said river or creek, who shall desire a public ferry across the same, shall apply to the board of county commissioners for the county in which such lands lie, who are hereby authorized to establish such ferry, from the land of such applicant to the opposite side; and in such case a certified copy of the order establishing such ferry shall be transmitted to the auditor of the county on such opposite side, at the expense of such applicant; and thereupon such county may assess a tax for license for such ferry, in a sum not exceeding, for both counties, the amount charged for such ferries where one county alone is concerned, half of which tax shall be assessed by each county. Nothing in this act shall be construed to make any person liable for crossing his own property or that of another, where he does not receive pay for the same. Sec. 7. Before the issuing of license to any person or

Sec. 1 amended. How amended.

Sec. 2 amended. How amended.

Sec. 7 amended. How amended.

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persons, or corporation, to keep a ferry, such person or persons, or corporation, shall execute to the State of Indiana a bond, in the penal sum of five hundred dollars, with surety to the acceptance of the county auditor, conditioned for the keeping such ferry according to law, which bond shall be filed in the auditor's office.

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## CHAPTER LIII.

AN ACT to prevent fraud in the sale of Flour, Pork, Beef, &c.

[APPROVED MARCH 2, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any person engaged in the manufacture or sale of flour, pork, beef, or other articles mentioned in an act regarding inspectors of salt, beef, pork, flour, tobacco, and hay, approved June 12th, A. D., 1852, who shall pack, brand, or sell, as full barrels or packages, or who shall cause to be packed, branded, or sold, as full barrels or packages, when such barrels or packages do not contain the weights the aforesaid act says they shall contain, such person or persons, on conviction thereof, shall be fined not less than ten dollars nor more than fifty dollars for each and every offense. Persons violating this section fined, and what amount.

SEC. 2. Whereas, it is represented to this General Assembly, that the offenses prohibited in this act are now being practiced, to the detriment of the people of this State, an emergency is declared to exist for the speedy taking effect of this act; therefore, this act shall be in force from and after its passage and publication in the Indiana State Journal and Indiana State Sentinel. Emergency.

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## CHAPTER LIV.

AN ACT for the preservation and collection of the Trust and other Funds of this State, and to provide for the substitution of mortgages, and prescribing the punishment of officers who loan a greater amount of said funds than is authorized by law.

[APPROVED MARCH 2, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the bonds, mortgages, Bonds mortgages, notes, or other evidences

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of debt, not invalid on account of the amount of the loan for which they were executed, &c.

notes, or other evidences of debt, or instruments of writing, executed by any person or persons, or that may hereafter be executed for loans of money of any of the trust or other funds of the State, authorized by law to be loaned, be and the same are hereby declared not to be invalid on account of the amount of such loan being for a larger sum than was, is, or may be contemplated or authorized by law, but the same are hereby declared to be as valid and obligatory, in every respect, as if the loan for which the same are executed had been for no greater amount than was by law in such case contemplated or authorized.

The title to land, or lands and tenements, not to be deemed invalid.

SEC. 2. No borrower shall be permitted to defend any suit brought for the recovery of any such money, on the ground that the officer who made the loan loaned a greater sum than the law authorized; nor shall any title to land, or lands and tenements, be deemed invalid, because the mortgage upon which it was or may be sold, was, or is, or may be for a sum greater than the law authorized to be loaned. *Provided, however*, that this act shall not be so construed as to release any officer charged with the loaning of said funds, or any of them, or his, or their securities, from any liability incurred hereafter for breach of duty.

Proviso.

When default is made in the payment of principal or interest of trust funds of the State, suit shall be brought, &c.

SEC. 3. When default is made in the payment of the principal or interest of any loan from the sinking fund, surplus revenue fund, congressional township fund, college fund, or any other of the trust or other funds of the State, suit shall, in the first instance, be brought upon the bond in every case where the obligor is considered responsible, and where the mortgage is considered insufficient, and ultimately for any deficit, proceedings may be had upon the mortgage as now authorized.

The State may bid in the property for what the same may be deemed worth.

SEC. 4. In all cases where the mortgagor is considered of doubtful solvency, and the property, when offered for sale, will not bring the amount due on the mortgage, the State herself may bid in the property for what the same may be deemed worth, and hold the mortgagor liable upon his bond for the deficiency: *Provided, however*, that if the State shall subsequently sell any land so bid in for more than the amount of principal, interest, damages, and costs due from the mortgagor or mortgagors, he or they shall be entitled to the surplus.

Proviso.

The laws limiting the amount to be loaned, shall not prevent substitution.

SEC. 5. The laws limiting the amount to be loaned by the officers having charge of said funds, shall not prevent substitutions, but such substitutions may be made by the borrower, or any third person, by his consent, where the officers having control of the fund

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believes the interest of the fund will not suffer thereby: *Provided*, the mortgaged security shall in no case be diminished, but may be increased if deemed insufficient.

Penalty for violation of the law fixing the amount to be loaned.

SEC. 6. Any officer having charge of any of said funds, with authority to loan the same, who shall loan to any one person, at any one time, a greater amount of such fund than is authorized by law to be so loaned, shall, on indictment and conviction, be fined in any sum not exceeding twice the amount of such loan over the sum authorized by law to be loaned, to which may be added imprisonment for any term of time not exceeding six months.

Repeal.

SEC. 7. All laws conflicting with the provisions of this act are hereby repealed.

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## CHAPTER LV.

AN ACT prohibiting adult persons wagering or gaming with minors, and prescribing that such adult, on conviction, shall be fined and imprisoned in the common [county] jail, and making such minor a competent witness, and absolving the minor from all liability for such gaming and wagering, in case the minor is a witness against such adults as may be charged.

[APPROVED MARCH 1, 1855.]

Persons violating provisions of this sec., what deemed guilty of, and how punished.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That adult persons who shall play or bet at or upon any game, or wager with any person being an infant under the age of twenty-one years, knowing said person to be a minor, such person so playing or betting shall, on conviction, be deemed guilty of a misdemeanor, and shall be fined in any sum not less than twenty dollars, and imprisoned in the county jail of the proper county not less than thirty days nor more than one year.

Minor shall testify against adults.

SEC. 2. Any minor who may be called upon to testify against any adult in the cases contemplated in the foregoing section, shall testify to all the facts known to such minor of and concerning such playing or betting, and such minor shall, after he so testifies, be forever exempt from any liability for playing or betting with such adult as to the act he testifies to.

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# CHAPTER LVI.

AN ACT regulating the adoption of heirs.

[APPROVED MARCH 2, 1855.]

Person desirous of adopting child to file petition therefor in circuit or common pleas court.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any person desirous of adopting any child may file his petition therefor in the circuit court or court of common pleas in the county where such child resides.

What the petition to specify.

SEC. 2. Such petition shall specify:

*First.*—The name of such petitioner.

*Second.*—The name of such child; its age; whether it has any property, and if so, how much.

*Third.*—Whether such child has either father or mother living, and if so, where they reside. Such petition shall be verified by the oath or affirmation of such petitioner.

Petition to be verified by oath or affirmation of petitioner.

Such child shall take the name in which it is adopted.

SEC. 3. Such court, when satisfied that it will be for the interest of such child, shall make an order that such child be adopted, and from and after the adoption of such child, it shall take the name in which it is adopted, and be entitled to and receive all the rights and interest in the estate of such adopted father or mother, by descent or otherwise, that such child would do if the natural heir of such adopted father or mother.

Adopted father or mother to occupy same position as if natural father or mother.

SEC. 4. After the adoption of such child, such adopted father or mother shall occupy the same position towards such child that he or she would if the natural father or mother, and be liable for the maintenance, education, and every other way responsible as a natural father or mother.

The court shall adopt such child if it have a father or mother living without their consent. Proviso.

SEC. 5. Such court shall not adopt such child if it have a father or mother living, unless such father or mother appear in open court and give consent thereto; *Provided*, that if such petitioner show, by two competent witnesses, that the residence of such father or mother be unknown, then such court may adopt such child.

SEC. 6. Such petitioner shall pay all costs of such proceedings.

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# CHAPTER LVII.

AN ACT to amend the twenty-fourth, the thirty-first, the thirty-third, and the thirty-seventh sections of an act entitled "An act to provide for the opening, vacating, and change of highways," approved June 17th, 1852.

[APPROVED MARCH 3, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section twenty-fourth of an act entitled "An act to provide for the opening, vacating, and change of highways," approved June 17th, 1852, which is in the following words, to wit: "Sec. 24. If a majority of the viewers last named report against the public utility of such highway, the same shall not be established unless the petitioners will open and maintain the same at their own expense; but if they report favorable thereto, the objectors shall pay the costs of the reviewers, and the highway shall be recorded and ordered to be opened and kept in repair; but in no case shall a highway be opened or vacated, or a change be made, if a majority of the freeholders residing along such proposed highway, or along such change, or along such highway proposed to be vacated, shall remonstrate against the same," be and the same is hereby amended so as to read as follows, to wit: Sec. 24. If a majority of the viewers last named report against the public utility of such highway, the same shall not be established, unless the petitioners will open and maintain the same at their own expense; but if they report favorably thereto, the objector shall pay the costs of the reviewers, and the highway shall be recorded and ordered to be opened and kept in repair. And that the thirty-first section of the act aforesaid, which is in the words following, to wit: "Sec. 31. If at any time before such highway is ordered to be laid out or made, a majority of the persons residing along the same remonstrates against granting the prayer of such petitioner, such board shall dismiss it; and if before final action on such petition, any person through whose lands such highway or change runs, shall remonstrate against the same, such trustees shall appoint three disinterested persons to examine the same and assess the damages, if any, which such person sustains by reason of the running of such highway or change, if through his lands," be and the same is hereby amended so as to read as follows, to wit: Sec. 31. If before final action on such petition any person through

Sec. 24 amended.

How amended.

Sec. 31 amended.

How amended.

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whose land such highway or change runs, shall remonstrate against the same, such trustees shall appoint three disinterested persons to examine the same, to assess the damages, if any, which such person sustains by reason of the running of such highway or change through his lands. And that the thirty-third and thirty-seventh sections of said act, which are in the words following, to wit: "Sec. 33. If such reviewers assess damages, and such trustees consider that the road is of sufficient importance, they may order such damages to be paid out of the township treasury; or if no damages be assessed, they may order such highway or change to be opened and kept in repair; but if such damages be greater than the utility of the highways or change, such petition shall be dismissed at the cost of the person presenting the same." "Sec. 37. Appeals may be taken by any person aggrieved to the board of commissioners of such county, upon filing a bond, with surety and penalty, to be approved by such township clerk, conditioned for the due prosecution of such appeal and the payment of costs, if costs be adjudged against him, such bond to be filed within thirty days after such decision is made;" be and the same is hereby amended so as to read as follows, to wit: Sec. 33. If such reviewers assess damages, and such trustees consider that the road is of sufficient importance, they may order such damages to be paid out of the township treasury; or if the amount of such damages be paid into the township treasury, for the benefit of the objector, by the petitioner or other person who may be interested in having such change made, or if no damages be assessed, they may order such highway or change to be opened and kept in repair; but if such damages be greater than the utility of the highway or change, the same be not paid into the treasury, as aforesaid, within thirty days after such assessment is reported, then such petition shall be dismissed at the cost of the person presenting the same. Sec. 37. Appeals may be taken by every such petitioner, objector, or other person in any way aggrieved by the report of such reviewers, or decision of such trustees, to the board of commissioners of such county, upon filing a bond, with surety and penalty, to be approved by such township clerk, conditioned for the due prosecution of such appeal, and the payment of costs, if costs be adjudged against him, such bond to be filed within thirty days after such decision is made.

Sec. 33 amended.

Sec. 37 amended.

How amended.

How amended.

The trustees of the township in which the road is changed shall be duly satisfied that the new road

Sec. 2. That whenever any person shall procure the establishment of a highway, private or public, by a change of one already established on or across his own land, before the same shall be received by the proper

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supervisor as such, it shall be made as passable as the old highway, or as nearly so as the nature of the case will admit, of which fact the trustees of the township in which the change is made, shall be duly satisfied before such supervisor shall be required to keep it in repair. is as passable as the old one, &c.

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## CHAPTER LVIII.

AN ACT to amend section nineteen of an act entitled "An act for the government of the Indiana Hospital for the Insane, and the care of the Insane of Indiana," approved January 15th, 1852.

[APPROVED MARCH 3, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 19 of said act, which reads as follows, to-wit: "When the patients are not otherwise supplied with clothing, they shall be furnished by the Superintendent, who shall make out an account therefor, in each case, against the respective counties from which said patients were sent, in an amount not exceeding twenty dollars per annum for every such patient, which account shall be signed by the Superintendent and attested by the seal of the Hospital, and shall be delivered to the Treasurer of State, to be by him collected of such county as a debt due the said Institution," be amended to read as follows, to-wit: That when the patients of the Hospital for the Insane, and pupils of the Institute for the Blind and Asylum for the Deaf and Dumb are not otherwise supplied with clothing, they shall be furnished by the proper Superintendent, who shall make out an account therefor, in each case, against the respective counties from which said patients and pupils were sent, in an amount not exceeding twenty dollars per annum for every such patient, which account shall be signed by the Superintendent and attested by the seal of the Hospital, Institute for the Blind, or Asylum for the Deaf and Dumb, as the case may be, and the Treasurer of State shall charge the account thus certified to the county from which the patient was sent, and credit the amount to the current expense fund of the Indiana Hospital for the Insane, Institute of the Blind, and Asylum for the Deaf and Dumb. Section nineteen amended. How amended.

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Emergency.

SEC. 2. It is declared that an emergency exists for this enactment, therefore, this act shall be in force from and after its passage and publication in the State Sentinel and Journal.

When certified account is received by Treasurer of State to be sent immediately to Treasurer of proper county, and by him paid, &c.

SEC. 3. When such certified account shall be received by the Treasurer of the proper county, to whom it shall be immediately sent upon its reception by the Treasurer of State from such Superintendent, such county treasurer shall cause the same to be paid out of the county treasury to the Treasurer of State. And such county treasurer shall collect the amount of such account from the estate of such patient, or pupil, if he have any, by suit, if necessary, in the name of the county: *Provided*, That if such patient or pupil have a family, at least five hundred dollars of his property shall be exempt from the payment of such account. And suit for the collection of such account may be commenced in the county to which the account is certified, but the Court in which it is instituted, shall appoint a guardian *ad litum* for such patient or pupil; and if he have a wife, shall cause at least twenty days' notice of the commencement of such suit, to be given her in writing. And no other notice of such suit, except as herein provided, shall be required.

Proviso relative to exemption and payment of account.

Repeal.

SEC. 4. All laws and parts of laws coming in conflict with this act, be and the same are hereby repealed.

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## CHAPTER LIX.

AN ACT to amend section 3 of an act entitled "an act for the incorporation of towns, defining their powers, providing for the election of officers thereof, and declaring their duties," approved June 11th, 1852.

[APPROVED FEBRUARY 23, 1855.]

Section 3 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 3 of an act entitled "an act for the incorporation of towns, defining their powers, providing for the election of officers thereof, and declaring their duties," approved June 11th, 1852, which reads as follows: Such survey, map and census, when complete, and verified as aforesaid, shall be left at some convenient place within said territory for examination by those having interest in such application, for a period of not less than four weeks, be and

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the same is hereby amended to read as follows: Such survey, map and census, when completed and verified as aforesaid, shall be left at some convenient place within said territory, for examination by those having interest in said application, for a period of not less than twenty days. How amended.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, it shall therefore take effect and be in force from and after its passage and publication in the Indiana State Sentinel and Indiana State Journal. Emergency.

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## CHAPTER LX.

AN ACT to authorize Educational Corporations to borrow money and secure the same by mortgage, and to increase or diminish the number of their Directors or Trustees.

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any incorporated University, College, Academy, Theological Institution, or high school existing at the time of the adoption of the present constitution of the State, under either a special charter or a general law, be and they are hereby authorized to borrow money for the benefit and use of such corporation, and to secure the same by mortgage of any of the property, real or personal, of any such corporation. Incorporated Universities, Colleges, &c., may borrow money, and secure payment by mortgage.

SEC. 2. That any such corporation may, by a vote of a majority of the board of trustees, or directors, or by a vote of the stockholders at any general meeting, if it be a stock corporation, either increase or diminish the number of directors or trustees of such corporation, so that they shall not be less than five nor more that twenty-one. How number of trustees may be increased or diminished.

SEC. 3. Whereas the necessity of some of the aforesaid institutions demand the taking effect of this act before it can be published and circulated in the several counties, an emergency is declared to exist for the immediate taking effect of this act, therefore this act shall be in force from and after its passage. Emergency.

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## CHAPTER LXI.

AN ACT to amend section twenty-second of an act entitled "An act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and declaring their duties," approved June 11th, 1852.

[APPROVED MARCH 2, 1855.]

Section twenty-two amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section twenty-second of an act entitled "An act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and declaring their duties," approved June 11th, 1852, which is in the words following, to wit: "Sec. 22. The board of trustees shall have the following powers, viz:

"*First*—To have a common seal and alter the same.

"*Second*—To purchase, hold, or convey any estate, real or personal, for the use of the corporation, so far as such purchase may be necessary to carry out the objects contemplated by this act.

"*Third*—to organize fire companies, hook and ladder companies; to regulate their government, and the times and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires; to make owners of buildings provide ladders and fire buckets, which are hereby declared to be appurtenances to the real estate, and exempt from execution, seizure, or sale; and if the owner shall refuse to procure suitable ladders or fire buckets, after reasonable notice, the trustees may procure and deliver the same to him, and, in default of payment therefor, may recover of said owner the value of such ladder or fire buckets, by suit before any justice of the peace in the proper township, and costs accrued thereby; to regulate the storage of gun powder and other dangerous materials; to direct the construction of a place for the safe deposit of ashes, and may, under an order by them entered upon the proper book of the board, visit, or appoint one or more fire wardens to visit and examine, at all reasonable hours, dwelling houses, lots, yards, inclosures, and buildings of every description; discover if any of them are in a dangerous condition, and provide proper remedies for such danger; to regulate the manner of putting up stoves and stove pipes; to prevent out-fires and the use of fire-works, and the discharge of fire-arms within the limits of said corporation, or such parts thereof as they may think

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proper; to compel the inhabitants of such town to aid in the extinguishment of fire and prevent its communications to other buildings under such penalties as are in this act provided; to construct and preserve reservoirs, wells, pumps, and other water works, and to regulate the use thereof, and generally to establish other measures of prudence for the prevention or extinguishments of fires as they shall deem proper.

"*Fourth*—To declare what shall constitute a nuisance, and to prevent, abate, and remove the same, and take such other measures for the preservation of the public health as they shall deem necessary.

"*Fifth*—To restrain from running at large cattle, sheep, swine, or other animals.

"*Sixth*—To restrain and prohibit gambling and other disorderly conduct, to suppress and prohibit the keeping of houses of ill fame, and to authorize the seizure and destruction of gambling apparatus.

"*Seventh*—To license, regulate, or restrain auction establishments, traveling pedlers, and public exhibitions within the corporation.

"*Eighth*—To establish and regulate markets, and build market houses, and direct the location of slaughter houses.

"*Ninth*—To lay out, open, grade, and otherwise improve the streets, alleys, sewers, side walks, and crossings, and keep them in repair, and to vacate the same.

"*Tenth*—To appoint street commissioners, and also fire wardens, not exceeding three.

"*Eleventh*—To prohibit incumbrance of the side walks of said town, and riding or driving thereon, except to cross the same.

"*Twelfth*—To insure the public property of such town.

"*Thirteenth*—To purchase, lay out, and establish cemeteries.

"*Fourteenth*—To plant trees upon public ground, and along the streets of such town, and provide for their culture and preservation, and to inclose any public square, or other public grounds within said corporation.

"*Fifteenth*—To levy and collect annual taxes, not exceeding fifty cents on the hundred dollars valuation, and twenty-five cents poll tax, on all property subject by law to taxation.

"*Sixteenth*—To make and establish such by-laws, ordinances, and regulations, not repugnant to the laws of this State, as may be necessary to carry into effect the



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provisions of this act, and to repeal, alter, or amend the same as they shall seem to require; but every by law, ordinance, or regulation, unless in case of emergency, shall be published in a newspaper in such town, if one be printed therein, or posted in five public places, at least ten days before the same shall take effect;" be and the same is hereby amended by adding thereto the following clauses, to wit:

How amended.

*Seventeenth*—Such board of trustees shall have power to complete school houses now in progress of erection, and to provide for the payment of the same; to erect or provide such school houses as may be necessary for the use of the schools of the town, to keep them in repair, and to provide fuel and other necessaries therefor.

*Eighteenth*—To construct all necessary wharves and landings for steamboats and other vessels, where such town is situate on the banks of any navigable stream or water course.

*Nineteenth*—Said board of trustees shall have power to levy and collect annual taxes, not exceeding thirty cents on the hundred dollars valuation, on all property subject by law to taxation, for the support of town schools within their said corporation.

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## CHAPTER LXII.

AN ACT to amend an act entitled "An act for the incorporation of Towns, defining their powers, providing for the election of the officers thereof and declaring their duties, and declaring certain taxes legal, and to provide for the manner of giving notices by the Trustees of incorporated cities and towns"

[APPROVED MARCH 3, 1855.]

Sec. 30 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section thirty of "An act for the incorporation of towns, defining their powers, providing for the election of officers thereof, and declaring their duties," approved June 11, 1852, which reads as follows: "The Board of Trustees shall, before the third Tuesday in May of each year, determine the amount of general tax for the current year," be and the same is hereby amended to read as follows: The Board of Trustees shall, before the third Tuesday in May of each year, after the town shall have been incorporated, determine the amount of general tax for the current

How amended.

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year; but the tax for the year in which the town is incorporated may be determined at any time by the Board of Trustees.

Assessment of taxes heretofore made legalized and made collectable.

SEC. 2. That any taxes heretofore assessed by the Board of Trustees of any incorporated town, after the time specified in section thirtieth of said act, be and the same are hereby legalized and declared collectable, as if levied according to the provisions of said act.

Sec. 31 amended

SEC. 3. That section thirty-first of the act above referred to, which reads as follows: "The assessor shall assess all property liable to taxation in such town under such rules and regulations as the Board may prescribe, and shall make return of his assessment roll to such Board on or before the second Tuesday in June of each year," be and the same is hereby amended to read as follows: The Assessor shall assess all property liable to taxation in said town under such rules and regulations as the Board may prescribe, and shall make return of his assessment roll to such Board on or before the second Tuesday in May of each year, or at such other time as the Board of Trustees may direct.

How amended.

Emergency

SEC. 4. Whereas many towns in this State have become incorporated under the act above referred to after the second Tuesday in May, and have levied taxes for the year they became incorporated; and whereas, doubts exist as to their legal right to collect the same, therefore, in the opinion of this Legislature, an emergency exists for the passage of this act, and it is therefore declared to take effect from and after its passage and publication in the Indiana Journal and Indiana State Sentinel.

Notice required to be given may be in writing, posted in 3 most public places.

SEC. 5. All notices now required by law to be given by the Trustees of any incorporated town or city may hereafter be given by written notices, to be posted up in three of the most public places within such incorporated town or city.

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## CHAPTER LXIII.

AN ACT to amend the first and fourth sections of an act entitled "An act for the incorporation of cities," approved June 18th, 1852.

[APPROVED JANUARY 26, 1855.]

Sec. 1 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of an act

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entitled "An act for the incorporation of cities," approved June 18th, 1852, which section is as follows, to wit: "Sec. 1. That all towns having a population of three thousand souls and upwards, shall, in addition to the powers they already possess by virtue of their incorporation, upon complying with the provisions of this act, be incorporated cities, with the rights and privileges herein conferred," be and the same is hereby amended so as to read as follows, to wit: That all towns having a population of two thousand souls and upwards, shall, in addition to the powers they already possess by virtue of their incorporation, upon complying with the provisions of this act, be incorporated cities, with the rights and privileges herein conferred.

How amended.

Sec. 4 amended.

SEC. 2. That the fourth section of the act named in the title to this act, which section reads as follows, to wit: "Sec. 4. If the return shall show a population of three thousand persons or more, the trustees, within ten days thereafter, shall publish a notice to the voters of such town, as in other corporation elections, stating that on a day, and at a place therein named, a poll will be opened to determine whether such town shall be incorporated as a city," be and the same is hereby amended so as to read as follows, to wit: If the return shall show a population of two thousand persons or more, the trustees, within ten days thereafter, shall publish a notice to the voters of such town, as in other corporation elections, stating that on a day, and at a place therein named, a poll will be opened to determine whether such town shall be incorporated as a city.

How amended.

Emergency

SEC. 3. It is hereby declared that an emergency exists, which requires that this act take effect and be in force from and after its passage; therefore this act shall be in force from and after its passage.

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## CHAPTER LXIV.

AN ACT to enable cities which have subscribed for stocks in companies incorporated to construct works of public utility, under the 56th section of the general act for the incorporation of cities, and to ratify the same.

[APPROVED FEBRUARY 21, 1855.]

Certain acts declared valid.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the common council of

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any city which has contracted obligations or liabilities by subscribing for the stock of any company incorporated for the construction of any railroad or other work of public utility to such city, upon the written petition of three-fourths of the legal voters thereof, under the provisions of the fifty-sixth section of the general act for the incorporation of cities, upon the supposition it was authorized so to do by said section, may, at any time after the passage of this act, ratify and affirm such subscription; and upon such ratification, such subscription and the obligations and liabilities, and the corporate bonds or obligations issued or to be issued therefor by such city, shall be valid.

Emergency.

SEC. 2. That inasmuch as contracts have been entered into by cities which it is desirable should be ratified or disaffirmed without delay, it is declared that an emergency exists in this case, and this act shall take effect from and after its passage.

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## CHAPTER LXV.

AN ACT to provide for the confinement of persons insane and dangerous when suffered to run at large, and for the compensation of him to whom the custody of such insane person is committed.

[APPROVED FEBRUARY 21, 1855.]

What steps necessary for the arrest of insane persons when running at large

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, When complaint, on oath, shall be made before any justice of the peace, that any person is insane, and dangerous to community if suffered to remain at large, such justice shall issue a warrant to any constable within his county, or to the sheriff thereof, commanding him to apprehend such insane person and bring him forthwith before him, which process shall be served and returned in the same manner as State's warrants are served and returned; and he shall issue a summons for, and compel by attachment the attendance at the trial hereinafter mentioned, of such witnesses as may be demanded by either party, under the same regulations as govern criminal prosecutions in justices' courts.

How justice shall be governed.

SEC. 2. Immediately after the issuing of such warrant, such justice shall issue to such constable a *venire*, for a jury of six reputable householders or freeholders of

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the county, which shall be served and returned as other summonses for a jury before a justice of the peace are served and returned; and in granting changes of *venue*, continuance, and the conduct of such proceeding generally, such justice shall be governed by the practice by law regulating his criminal jurisdiction, when not inconsistent herewith.

Duty of justice in regard to jury trying the case.

SEC. 3. Whenever such insane person is arrested and brought before such justice, and the requisite number of competent persons are present, such justice shall administer to them an oath or affirmation to impartially try the issue according to law, whether such insane person is insane and dangerous to community if suffered to run at large; but before administering such oath, such justice shall interrogate each of such jurors, under oath, as to whether he is prejudiced against such insane person, has any interest in his property, or is related to him, or any member of his family, by consanguinity or affinity, within the fifth degree; and if he shall answer affirmatively any of such interrogatories, he shall be rejected from such jury; and such insane person, or any person in his behalf, shall have the right to challenge three of such jurors peremptorily.

If upon trial alleged person is found not to be insane, or if insane not dangerous, the cost to be taxed against complaining party, &c.

SEC. 4. If after having the evidence introduced upon trial of such issue, and the personal inspection of such alleged insane person, who shall be personally present at such trial, the jury find that such person is not insane, or that he is not dangerous to community if suffered to remain at large, he shall be discharged from custody, and the costs of such proceeding shall be taxed against the complaining party; but if the jury find that such person is insane and dangerous to community if suffered to remain at large, such justice shall appoint some resident of the county to take charge of and confine such person, for which he shall receive a reasonable compensation by the board of commissioners of the county, at their next term thereafter, to be paid out of the county treasury; but said commissioners may appoint some other person to take charge of such insane person, at any time in their discretion; or such justice, upon complaint and proof that such insane person is illy treated by the person so appointed as aforesaid, may appoint some other person to take charge of such insane person.

County commissioners to allow reasonable compensation.

Justice to certify his proceedings within ten days to the Court of Common Pleas, if the jury decide against alleged person.

SEC. 5. Such justice, in case the finding of such jury be against such insane person, shall certify his proceedings thereupon, within ten days thereafter, to the Court of Common Pleas of the county, and at the next term of such court, after the filing of the transcript of such

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proceedings in the clerk's office thereof, such court shall cause said issue to be again re-tried by a jury of twelve persons, under like instructions and conditions as to the manner of impanneling the jury, administering oaths, peremptory challenges, verdict of jury, judgments for costs, as hereinafter provided; and if the finding of such jury shall be against such insane person, such court shall confirm the appointment of such person to take charge of such insane person, or may appoint some other suitable person for that purpose.

If insane person has no family, or if he has a family and more than five hundred dollars, cost of trial and keeping to be taxed against him.

SEC. 6. If such insane person so adjudged insane and dangerous as aforesaid, have a family, and his property shall not exceed in value five hundred dollars, no part of his estate shall be applied to the payment of the costs of such proceedings, or for his keeping; but when he shall have no family, all his property; or where he has a family, and his property shall exceed in value five hundred dollars, the excess thereof above five hundred dollars shall be subject to the payment of said costs and expense of keeping, if adjudged against said insane person; and such Court of Common Pleas shall order whatever sum has been paid out upon the order of such commissioners for the purposes and in the manner hereinbefore mentioned, to be refunded out of said insane persons estate, under the foregoing restrictions, to the county treasury, and shall make provisions out of such estate for payment of expenses to afterwards accrue, until such estate is exhausted within said restrictions or such insane person is discharged. And in all cases where such insane persons have heretofore been a charge upon county treasuries, the county commissioners shall have power to collect said charges out of the property of said insane person, under the same restrictions as are in this section provided.

When court may appoint guardian for insane person.

SEC. 7. If such insane person have an estate subject to the payment of such expenses, such court shall appoint a guardian for such insane person, under like restrictions, in the same manner, with the same powers and duties, as in the case of guardians for minors.

When jury before justice shall find in favor of defendant, any person may appeal therefrom to the court of common pleas &c.

SEC. 8. Whenever the jury before such justice shall find in favor of the defendant, any person may appeal therefrom to the Court of Common Pleas of the county, by filing a bond within ten days thereafter, in such reasonable penalty, not less than one hundred dollars, as the justice may require, with surety by him to be approved, payable to the State, and conditioned that, if upon the trial of such appeal, he shall not establish that the defendant is insane and dangerous to community if suffered to remain at large, such bond shall be in force,

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and recovery shall be had thereon for the benefit of such defendant, in the name of the State, on his or his guardian's relation; and such justice, upon the filing of such appeal bond, shall appoint a person to take charge of such defendant as hereinafter provided, and shall within ten days thereafter file, in the clerk's office of the Court of Common Pleas of the county, a transcript of such proceeding, together with said bond; and the trial of such appeal shall be had at the time and in the manner as hereinbefore provided when the finding of the jury is against the defendant.

Justice shall file, within ten days, transcript of proceedings and bond.

When insane person may be sent to Hospital for Insane.

SEC. 9. Such insane person may at any time be sent to the Hospital for the Insane, under the laws regulating the same, when he shall be an admissible subject to the benefits thereof.

Emergency.

SEC. 10. As there are now persons in this State alleged to be remaining at large, insane and dangerous to community, who are not entitled to the benefit of the Hospital for the Insane, and as there is no law authorizing their confinement in such case, an emergency is hereby declared to exist for the immediate taking effect of this act, and that the same shall be in force from and after its passage.

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## CHAPTER LXVI.

AN ACT amending section 11, of chapter 31, of the Revised Statutes of 1852, relative to the making out and furnishing to the several Inspectors of Elections, poll books, tally papers, &c., and providing compensation for said services.

[APPROVED FEBRUARY 27, 1855.]

Sec. 11 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 11, of chapter 31, of volume first of the Revised Statutes of 1852 be amended, which section reads as follows: "The Board of County Commissioners in each county, at their first meeting in every year, shall cause a suitable number of blank forms of poll books, containing one column headed 'names of voters,' and an additional column headed 'number of voters,' and also forms of election returns with the proper captions, and forms of certificates to be made out for and delivered to each Inspector by the Sheriff at least ten days previous to the next election," so as to read: The Auditors of each county in the State shall

How amended.

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make out and cause to be delivered to the Inspectors of the several election precincts in their respective counties, at least ten days previous to any election, a suitable number of blank forms of poll books, containing one column headed "names of voters," and an additional column headed "number of voter, [votes]," and also forms of election returns, with the proper captions, and forms of certificates and tally papers necessary to be used in all elections hereafter held in this State.

SEC. 2. The County Commissioners of each county shall allow said Auditors a reasonable compensation for all services by them rendered, as required by the first section of this act, and to be paid out of the treasary of their respective counties.

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## CHAPTER LXVII.

AN ACT to amend an act entitled "An act for the Incorporation of Insurance Companies, defining their powers and prescribing their duties," approved June 17, 1852.

[APPROVED MARCH 2, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section fifty-six of an act entitled "An act for the incorporation of insurance companies, defining their powers and prescribing their duties," approved June 17th, 1852, which reads as follows, to-wit: "Every person who shall undertake to act as an insurance agent for any company not incorporated under the laws of this State, shall first deposit with the Recorder of the county in which he proposes to establish his agency an authenticated copy of a resolution or order of the board of directors of such company authorizing any citizen or resident of Indiana, having a claim growing out of a contract of insurance made with such agent therein, to sue for the same in any court of this State, and consenting that service of process on such agent shall have the same force and effect as if served upon the president and directors of such company; and he shall also file an authentic copy of his commission or power of attorney, under which he claims to act as such agent; and any insurance made, or procured to be made by such agent or person acting in behalf, or as the medium of any foreign insurance company, contrary to the provisions of this section, shall be void," be

Sec. 56 amended.

How amended.

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and the same is hereby amended to read as follows, to-wit: That it shall not be lawful for any agent or agents of any insurance company, incorporated by any other State than the State of Indiana, directly or indirectly to take risks or transact any business of insurance in this State without first producing a certificate of authority from the Auditor of State; and before obtaining such certificate, such agent or agents shall furnish the said Auditor with a statement under oath of the president or secretary of the company for which he or they may act, which statement shall show:

*First*—The name and locality of the company.

*Second*—The amount of its capital stock.

*Third*—The amount of its capital stock paid up.

*Fourth*—The assets of the company, including

1st. The amount of cash on hand and in the hands of agents or other persons.

2d. The real estate unencumbered.

3d. The bonds owned by the company, and how they are secured, with the rate of interest thereon.

4th. Debts to the company secured by mortgage.

5th. Debts otherwise secured.

6th. Debts for premiums.

7th. All other securities.

*Fifth*—The amount of liabilities due, or not due, to banks or other creditors by the company.

*Sixth*—Losses adjusted and due.

*Seventh*—Losses adjusted and not due.

*Eighth*—Losses unadjusted.

*Ninth*—Losses in suspense waiting for further proof.

*Tenth*—All other claims against the company.

*Eleventh*—The greatest amount insured in any one risk.

*Twelfth*—The greatest amount allowed by the rules of the company to be insured in any one city, town, or village.

*Thirteenth*—The greatest amount allowed to be insured in any one block.

*Fourteenth*—The act of incorporation of such company; which statement shall be filed in the office of said Auditor, together with a written instrument, under the seal of the company, signed by the president and secretary, authorizing such agent to acknowledge service of process for and in behalf of such company, consenting that service of process upon such agent shall be taken and held to be as valid as if served upon the company according to the laws of this State, or any other State, and waiving all claim of error by reason of such service. And no insurance company, or agent or agents

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of any insurance company incorporated by any other State shall transact any business of insurance in this State, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in stocks of at least par value, or in bonds or mortgages of real estate, with double the amount for which the same is mortgaged. And upon the filing of the aforesaid statement and instrument with the Auditor of State, and furnishing him with satisfactory evidence of such investment as aforesaid, it shall be the duty of taid Auditor to issue a certificate thereof, with authority to transact business of insurance, to the agent or agents applying for the same.

Unlawful for any agent of any company incorporated by any foreign government other than a State of this Union, to transact business without authority from Auditor of State. Agent to satisfy Auditor such company has $100,000 invested.

SEC. 2. It shall be unlawful for any agent or agents of any company incorporated by any foreign Government, other than a State of this Union, to transact any business of insurance in this State without procuring a certificate of authority from the Auditor of State, such agent or agents having first filed, under oath, in the office of said Auditor, a statement setting forth the charter or act of incorporation of the company for which he or they may act, and the matters required to be specified by the first section of this act, and the written authority therein mentioned, and furnished evidence to the satisfaction of the Auditor of State that such company has invested in stocks of some one or more of the States of this Union, or of the United States, the amount of one hundred thousand dollars, and that such stocks are held by citizens of the United States; and the said agent or agents of such company filing said statement and furnishing evidences of investment as aforesaid, shall be entitled to a certificate of authority in like manner as is provided for in the first section of this act.

Agents before transacting business, to file statement with Auditor.

SEC. 3. It shall be the duty of the agent or agents, in either of the foregoing sections mentioned, before taking any risks or transacting any business of insurance in this State, to file in the office of the Clerk of the Circuit Court of the county in which he or they may desire to establish an agency for such insurance company, a copy of the statement required to be filed with the Auditor of State as aforesaid, together with the certificate of said Auditor, which shall be carefully preserved for public inspection by said Clerk.

First statement to be filed on April 15, 1855. Semi-annually in January and July in each year.

SEC. 4. The first statement and evidences required by this act shall be filed on or before the fifteenth day of April, in the year one thousand eight hundred and fifty-five, and thereafter renewed semi-annually, in the months of January and July in each year; and the Auditor of State, on being satisfied that the capital, securities, and

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investments remain secure as at first, shall furnish a renewal of certificate as aforesaid, and the agent or agents obtaining such certificate shall file the same, together with the statement on which it was obtained or renewed, in the office of the Clerk of the Circuit Court of the county in which such agency is established, and shall cause the same to be published in at least one newspaper of said county.

Duty of agent in regard to lawsuits.

SEC. 5. Whenever any loss shall occur of any property insured by any company authorized to take risks under this act, it shall be the duty of the agent by whom the insurance was made to retain in his possession all moneys belonging to such company, which may then be or may thereafter come into his possession, until such loss is adjusted and paid: *Provided*, that if suit shall be commenced by the party insured against such company, the agent may deposit in court double the amount mentioned in the policy, to abide the event of the suit; or if the party insured shall not commence suit within ninety days after the agent shall have given written notice to such party that the loss will not be paid, the agent may thereafter [pay over] to persons entitled the moneys of said company; and if any person insured by such company, meeting with a loss, shall notify any other agent of such company thereof, it shall be the duty of such agent to retain all moneys belonging to such company which may then be or may thereafter come into his possession, as hereinbefore required of the agent with whom the insurance was effected.

President, Secretary, or General Agent, to file a statement showing the amount of premiums received on insurances.

SEC. 6. It shall be the duty of the President or Secretary, or General Agent, of any company authorized by this act to transact the business of insurance in this State, at the time of filing the semi-annual statement provided for in the fourth section of this act, in the month of January, in each year, to file with the Auditor of State a statement, under oath, showing the amount of premiums received upon insurances made within this State by such company during the year next preceding, and to deposit with said Auditor five per cent. of the amount so received, in solvent stocks of at least par value, to be approved by the Auditor, until the sum of twenty-five thousand dollars is deposited as aforesaid, which said sum of twenty-five thousand dollars, deposited as aforesaid, shall be held by the Auditor as a guarantee fund for the benefit of such persons as may be insured by such company within this State, and the same, nor any part of the sums so deposited, shall not be drawn out by the company depositing as aforesaid, until all claims for losses or premiums on risks unexpired

Five per cent. to be deposited with Auditor.

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shall be fully paid and discharged; and in case of the insolvency of any such company, the sums so deposited as aforesaid shall be applied by the Auditor, *pro rata*, towards the payment of all claims filed in his office and duly authenticated against such company, alike as to losses and premiums on risks unexpired on policies issued within this State, within six months after such insolvency may occur, such company being deemed insolvent upon failure to pay undisputed losses insured against within this State, for the space of ninety days after a demand of payment, or for ninety days after final judgment. Such company shall be entitled to receive the interest or dividends on such stocks so deposited, from time to time, as the same may become due and payable.

Copies of all papers deposited with Auditor to have some force and effect, &c.

SEC. 7. That copies of all papers required by this act to be deposited in the office of the Auditor of State, certified under the hand of such Auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places, in the same manner and have the same force and effect as the originals would have if produced.

Insurance company shall not require the insured to give notice.

SEC. 8. No such insurance company shall insert any condition in any policy hereafter issued, requiring the insured to give notice forthwith, or within the period of time less than five days, of the loss of the insured property; nor shall any condition be inserted in such policy requiring the insured to procure the certificate of the nearest justice of the peace, mayor, judge, clergyman, or other official, or person, of such loss or the amount of such loss; and any provision or condition contrary to the provisions of this section, or any condition in said policy, inserted to avoid the provisions of this section, shall be void, and no condition or agreement not to sue for a period less than three years shall be valid.

Penalty for violating conditions of this act.

SEC. 9. Any person or persons violating the provisions of this act shall, upon conviction thereof, in any court of competent jurisdiction, be fined in any sum not exceeding one thousand dollars, or imprisonment in the county jail not more than thirty days, or both, at the discretion of the court. Violations of the provisions of this act may be prosecuted by information filed by the prosecuting attorney of the proper county, or by indictment of the grand jury.

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## CHAPTER LXVIII.

AN ACT supplemental to an act providing for the election and qualification of Justices of the Peace, and defining their jurisdiction, powers and duties, in civil cases, approved June 9, 1852, and prescribing the manner of filling vacancies.

[APPROVED FEBRUARY 2, 1855.]

When Clerk of Circuit Court may order an election to fill vacancy.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any vacancy shall occur, more than thirty days prior to the first Monday in April, in the office of justice of the peace, in any county in this State, by death, resignation, or otherwise, it shall be the duty of the Clerk of the Circuit Court of such county to order an election to fill such vacancy.

Such election to be governed by laws now in force governing special elections.

SEC. 2. All such special elections, the returns thereof, and issuing commissions to the persons elected, shall be conducted and governed by the laws now in force governing special elections; and the person so elected shall hold his office four years from the date of his commission.

Emergency

SEC. 3. It is hereby declared that an emergency exists for the taking effect of this act, and that it shall be in force from and after its passage and publication in the Indiana State Journal and State Sentinel.

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## CHAPTER LXIX.

AN ACT to amend the twenty-first section of an act prescribing the duties of Justices of the Peace in State prosecutions, approved May 29th, 1852, and to enable Justices to obtain mileage in making returns.

[APPROVED MARCH 1, 1855.]

Sec. 21 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the twenty-first section of the above act, which reads as follows: "It shall be the duty of every Justice, on the first Monday in January and July, in each year, and on going out of office, to pay over to the Treasurer of his county all money he may have received on account of fines, and all fees which may have remained unclaimed in his hands for twelve months, for the use of common schools; and he shall, at the same time, deliver to such Treasurer a statement,

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in writing, showing by items the sources from which such money was derived, and shall append thereto an affidavit that he has received no other money for fines not before paid over to such Treasurer, and has no other fees unclaimed for twelve months in his hands, and the Treasurer's receipt therefor he shall file with the Auditor, who shall give him a *quietus*," be and the same is hereby amended so as to read as follows: Sec. 21. It shall be the duty of every Justice, on the first Monday in January and July, in each year, and, on going out of office, to pay over to the Treasurer of his county all money he may have received on account of fines, and all fees which may have remained unclaimed in his hands for twelve months, for the use of common schools; and he shall, at the same time, deliver to such Treasurer a statement, in writing, showing by items the source from which such money was derived, and append thereto an affidavit that he has received no other money for fines not before paid over to such Treasurer, and has no other fees unclaimed for twelve months in his hands, and the Treasurer's receipt therefor he shall file with the Auditor, who shall give him a *quietus;* and if such return is made on the day required as aforesaid, then such Justice shall be entitled to receive from such Treasurer the sum of twenty-five cents, as a fee therefor, and also five cents for every mile that it may be necessary for such Justice to travel in making such return.

How amended.

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## CHAPTER LXX.

AN ACT providing that no Justice shall hear or determine any State prosecution for an assault and battery, or assault, unless the injured party be present, or being summoned refuses to attend, or when the summons for him is returned "not found," and that no trial shall be had in cases of affray, unless a witness thereof be present and testify upon such trial, or being summoned refuses to attend.

[APPROVED FEBRUARY 7, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That no justice of the peace shall hear or determine any complaint for assault and battery, or assault, unless the injured party be present as a witness, or having been subpœnaed refuse to attend, or unless a subpœna issued for the injured party shall have been returned "not found" by the proper officer; and no trial shall be had upon a complaint for an affray

Justice not to try cause unless injured party be present as a witness, &c.

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unless some person who saw the same shall be present as a witness, or having been subpœnaed refuse to attend.

## CHAPTER LXXI.

AN ACT to legalize the records of any proceedings in reference to roads heretofore made by the Clerk of any Court in any county of this State

[APPROVED MARCH 3, 1855.]

WHEREAS, it has been represented to this General Assembly that soon after the organization of several counties of this State, the reports of all the proceedings in reference to roads were recorded by the Clerk of the Circuit Court of such counties, in a record book kept by him, instead of being recorded in the record book of the county commissioners, as required by law; therefore,

Clerks' records of any or all reports in reference to roads in any county in this State, made as legal and effectual in law as if recorded in record book of county commissioners.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all records of any, and all reports in reference to any roads in any county of this State, which have heretofore been made or kept by the clerk of either of the courts of such county, in a book or books by him kept for such purpose, shall have the same force and effect as if recorded in the record book of the county commissioners, and all such records are hereby made legal and effectual in law.

Emergency.

SEC. 2. For the reasons set out in the preamble of this act, it is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

## CHAPTER LXXII.

AN ACT to legalize the sale of certain lands lying in section 16, made by county Auditors and Treasurers.

[APPROVED MARCH 3, 1855.]

Sales made legal and conveyances made valid where Treasurer and Auditor have sold lands.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases where the county Auditor or the Treasurer and Auditor of any county, have sold lands lying in section sixteen in any

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congressional township in this State, in different parcels or subdivisions from those made by boards of township trustees, and where the same have not been sold at a price less per acre than that fixed by the board of trustees, be and the same are hereby declared to be legal, and all conveyances made therefor are hereby declared valid as though said sales had been made in the sub-divisions made by the trustees.

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## CHAPTER LXXIII.

AN ACT to amend an act entitled "An act providing for the appointment of Notaries Public, and defining their powers and duties," approved June 9th, 1852, amending sections one and two, and repealing section three of said act.

[APPROVED FEBRUARY 12, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section first of an act entitled "An act providing for the appointment of Notaries Public, and defining their powers and duties," approved June 9th, 1852, which reads as follows: Sec. 1 amended.

"SEC. 1. Notaries Public shall be appointed by the Governor, upon a certificate of qualification and moral character from the Judge of the Circuit Court of their counties respectively, and shall, before they enter upon their duties as such, take an oath of office before the Clerk of the Circuit Court of their county, and file in his office, to be approved of by him, an official bond in the penalty of one thousand dollars, and shall serve four years," be so amended as to read: Notaries Public shall be appointed and commissioned by the Governor, upon a certificate of qualifications and moral character from the Judge of the Circuit or Common Pleas Court of their counties respectively, and shall, before they enter upon their duties as such, take an oath of office before the Clerk of the Circuit Court of their counties respectively, and file in his office, to be approved of by said Clerk, an official bond, with freehold security, in the penalty of one thousand dollars, and shall hold their office four years. How amended.

SEC. 2. *And be it further enacted*, That section two of said act, which reads as follows: Sec. 2 amended.

"SEC. 2. Notaries now in office may serve out the terms for which they were respectively appointed, but



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How amended.

hereafter no greater number shall be appointed than is in the next section provided," shall be amended to read as follows: Notaries now in office may serve out the terms for which they were respectively appointed, and the Governor may appoint Notaries Public in the several counties whenever in his judgment the public interest would be thereby promoted.

Sec. 3 repealed.

SEC. 3. *Be it further enacted*, That section third of said act, entitled "An act providing for the appointment of Notaries Public, and defining their powers and duties," approved June 9th, 1852, be and the same is hereby repealed.

Jurisdiction of Notaries Public co-extensive with limits of State.

SEC. 4. The jurisdiction of any Notary Public duly qualified in this State shall be co-extensive with the limits of the State, but no Notary shall be compelled to act out of the limits of the county in which he resides.

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## CHAPTER LXXIV.

AN ACT defining the duties and fees of Notaries Public in the case of protest of the notes of suspended banks.

[APPROVED FEBRUARY 21, 1855.]

WHEREAS, It is represented that in some instances citizens of this State and certain Notaries Public have entered into combination to return in large quantities the bills of suspended banks, for the purpose of accumulating the fees of protest, to the injury not only of the banker but of other holders of the notes of such banks, without adding in the least to the value of the notes so protested; therefore,

Notary Public allowed but one protest on each day against any one bank, and his duty in relation to such protest.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all the notes held or owned by any individual or his lawful attorney on any one day, and presented at any bank for protest, shall be by the Notary Public carefully counted, sealed up in a package, and forwarded to the office of the Auditor of State, and shall be entitled to but a single protest, and the effect of such protest shall be the same in law as if said notes were protested singly.

Penalty for violating the provisions of this act.

SEC. 2. Any Notary Public violating the provisions of this act, or exacting fees for more than a single protest of such bank notes for any individual or his legal

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attorney in any one day, shall be deemed guilty of a misdemeanor, and may, on presentment or indictment in any court of competent jurisdiction, be fined in any sum not exceeding one hundred dollars for each offence, and be deprived of his commission as such Notary.

Emergency.

SEC. 3. There being, in the opinion of the Legislature, an emergency, for the reasons set forth in the foregoing preamble, for the immediate taking effect of this act, the same shall be in force from and after its passage.

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## CHAPTER LXXV.

AN ACT in relation to Plank, McAdamized, Tram, and Gravel Road Companies.

[APPROVED MARCH 1, 1855.]

Stockholders may discontinue any part of road and sell material.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That corporations of any plank road, macadamized or gravel road, may, by a vote of the stockholders, discontinue any part of the road by them made, and sell any part of the material by them placed upon said road in constructing the same.

Corporation may convert any part or whole of said road into "tram road."

SEC. 2. Said corporation may build in addition thereto, or convert the whole or any part of said roads into a railroad, of wooden structure, commonly called a "tram road," and take tolls on the same not greater than is allowed to railroad companies organized under an act to provide for the incorporation of railroad companies, and the several amendments thereto.

Corporation by consent of directors to receive subscription for capital stock in land, town lots, &c.

SEC. 3. The corporation of any plank road, macadamized or gravel road, organized or to be organized under the laws of the State, may receive by the consent of the directors thereof subscriptions for the capital stock of said companies in land, town lots, and real estate, or other description of property as may be offered for said purpose, as fully as railroads are now permitted to receive real estate or other property, on subscription, as stock or as donation, and the same may be held, sold, or mortgaged, for the payment of any sums of money or any bonds issued by said company; and said companies may also accept bonds in subscription to the capital stock of said companies, any note secured by mortgage payable to said companies, and to negotiate the same as fully as they may negotiate bonds of the company, and hold said bonds so subscribed until all

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Proviso.

mortgages shall be paid in full and have a reasonable time to sell said lands thereafter; *Provided, however*, that no company aforesaid has hereby any right to sell or dispose of any public road which commissioners of respective counties have permitted to be used by said company.

Cumberland Road, New Albany and Vincennes Turnpike Road Companies, are prohibited from converting into tram road, for certain reasons named.

SEC. 4. Whereas, the State relinquished the Cumberland Road, the New Albany and Vincennes Turnpike Road, to certain plank and turnpike companies, by means whereof such companies realized a large bonus from the State, and by the terms of their charters are bound to keep up these roads, it is therefore declared that nothing in this act shall authorize or permit such plank and turnpike companies to discontinue any portion of their roads, or to change their road into a "tram road."

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## CHAPTER LXXVI.

AN ACT to amend the act entitled "An act authorizing the construction of Plank, McAdamized, and Gravel Roads, and to empower the same to make sale of a portion of their roads.

[APPROVED FEBRUARY 28, 1855.]

Any number not less than three may form themselves into a company.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for any number of persons, not less than three, to form themselves into a company under the act authorizing the construction of plank, macadamized, and gravel roads, for the purpose as well of purchasing and using a part or section of a road already built, or in process of building, as of constructing a new road.

It shall be lawful for any plank, macadamized and road company to sell any part or section of their road.

SEC. 2. That it shall be lawful for any plank, macadamized, turnpike, or gravel road company, heretofore organized or hereafter to be organized, whether under general or special charter, to sell any part or section of their road, (two-thirds of the directors of such company, or a majority in value of the stockholders present, in person or by proxy, at any regular or called meeting, concurring in such sale,) to any other party or corporation, at such price and upon such terms as may be mutually agreed upon; and to convey, by deed, to such party or company such portion or section of the road so sold, with all the rights, properties, and franchises therennto pertaining.

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SEC. 3. That it shall be lawful for any plank, macadamized, turnpike, or gravel road company, that has erected a bridge over any stream crossed by said road, which has cost one thousand dollars or more, to charge the same tolls for passing over such bridge as is allowed for the travel on two miles of such road, and when such bridge has cost over five hundred dollars and less than one thousand dollars, the same tolls as are allowed for the travel on one mile of such road.

Company may charge same tolls for passing over bridge as is allowed for travel on two miles of such road when the bridge cost $1000.

SEC. 4. That section thirteen of the act authorizing the construction of plank, macadamized, and gravel roads, approved May 12th, 1852, which reads as follows, to wit: "Sec. 13. Whenever three consecutive miles of such road shall have been completed, or if the whole of said road shall be less than three miles in length, then, in such case, when the whole of such road shall be completed, the directors of such company may erect toll gates, at such points and at such distances from each other as they may deem it proper, and exact toll from persons traveling on the road; but on any uncompleted road of less than five miles, tolls shall be charged one year only. The tariff of tolls shall not exceed the following rates: For every sled, sleigh, carriage, or vehicle, drawn by one animal, one and a half cents per mile, and for every animal in addition thereto one-half cent per mile; for every horse and rider, or led horse, one cent per mile; for every score of sheep or swine, two cents per mile; and for every score of neat cattle, mules, or asses, five cents per mile. Persons going to and from funerals, and soldiers of the United States or of this State, while in actual service, shall be exempt from toll," be amended and re-enacted to read as follows, to wit:

Sec. 13 amended.

Sec. 13. Whenever three consecutive miles of such road shall have been completed, or if the whole of said road shall be less than three miles in length, then, in such case, when the whole of such road shall be completed, the directors of such company may erect toll gates, at such points and at such distances from each other as they may deem it proper, and exact toll from persons traveling on the road, and the tariff of tolls shall not exceed the following rates: For every sled, sleigh, carriage, or other vehicle, drawn by one horse, two cents per mile, and for every animal in addition thereto, three-fourths of a cent per mile; for every horse and rider, or led horse, one and a half cents per mile; for every score of sheep or swine, five cents per mile, and in same ratio for a greater or less number; for every score of neat cattle, mules, or asses, ten cents per mile, and in same ratio for a greater or less number; for every vehicle

How amended.

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drawn by oxen the same rate as is allowed on carriages drawn by horses.

Plank, gravel, and macadamized road company to have ten years to complete their road.

SEC. 5. That every plank, macadamized, and gravel road company, in this State, may have ten years instead of four years from the date of their organization in which to complete their road.

Sec. 15 amended.

SEC. 6. That section fifteen of the act aforesaid, which reads as follows, to wit: "Sec. 15. Such company may fill all vacancies occurring in their board of directors by resignation or otherwise, by the remaining directors, at any of their meetings, and may make, enact, and publish any and all ordinances and by-laws which they may deem proper, not inconsistent with the laws of this State, in order to regulate the travel upon such road, and the rules to be observed by persons in meeting or passing with teams and vehicles, and all other matters, including the times and places of holding elections and the manner in which they shall be conducted, which may be deemed for the welfare of such company. Rules, as well as toll rates for travel, shall be placed in full view, and legible and large letters, upon each and all of the toll houses of such company on said road. Any person violating any ordinance or by-law made by such company, shall forfeit and pay to such company the sum of five hundred dollars, to be sued for and collected by such company, in an action of debt, before any justice of the peace of the county where the offender may be found. The company may change the line of its road whenever it may deem it of public importance and for the improvement of the road, but shall not avoid the points mentioned in their articles of association. Such company may extend its road by procuring the consent of two-thirds of the stockholders," be amended and re-enacted to read as follows, to wit:

How amended.

Sec. 15. Such company may fill all vacancies occurring in their board of directors, by resignation or otherwise, by the remaining directors, at any of their meetings, and may make, enact, and publish any and all ordinances and by-laws which they may deem proper, not inconsistent with the laws of this State, in order to regulate the travel upon such road, and the rules to be observed by persons in meeting or passing with teams and vehicles, and all other matters, including the times and places of holding elections and the manner in which they shall be conducted, which may be deemed for the welfare of such company. Rules, as well as toll rates for travel, shall be placed in full view, and legible and large letters, upon or in each and all of the toll houses of such company on said road. Any person violating

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any ordinance or by-law made by such company, shall forfeit and pay to such company any sum not exceeding one hundred dollars, to be sued for and collected by such company, in an action of debt, before any justice of the peace of the county where the offender may be found. The company may change the line of its road whenever it may deem it of public importance and for the improvement of the road, but shall not avoid the points mentioned in their articles of association. Such company may extend its road by procuring the consent of two-thirds of the stockholders.

Company to erect toll gates at such points as will best protect the company against imposition and loss.

SEC. 7. That it shall be lawful for any plank, macadamized, turnpike, or gravel road company, to erect toll gates at such convenient points on their road as in their judgment will best protect the company against imposition and loss, though such gates should be less than five miles apart; and any such company may, at any time, abandon any part of their road, two-thirds of the directors approving of such abandonment.

Benefit of this act not to extend to the Central Plank Road Company, unless they comply with certain conditions.

SEC. 8. The benefit of the provisions of this act shall not extend to the Central Plank Road Company, unless they shall agree to pass free of toll the officers, persons and teams connected with the public asylums of the State and the business thereof; and it is further declared, that the Central Plank Road Company shall in no case charge any officer, person and teams connected with the public asylums of this State, and the business thereof, any fee or toll contemplated herein: *And, provided further*, that no plank road in this State shall exact pay for persons going to and from funerals, or of soldiers of the United States, or of this State, while in actual service, or of ministers of the gospel, going to and returning from their appointments for preaching.

Emergency.

SEC. 9. All plank, macadamized, or gravel road companies, intended to be organized and actually operating under the act of 12th May, 1852, aforesaid, be and the same are hereby legalized; and as it is deemed important that existing companies should have the immediate opportunity of availing themselves of the provisions of this act, an emergency is declared to exist, and this act shall be in force from and after its passage.

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## CHAPTER LXXVII.

AN ACT to provide for printing and binding the laws of the present session of the General Assembly.

[APPROVED MARCH 3, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That of the laws of the present session of the General Assembly there shall be printed and bound fifteen thousand copies, which printing, binding, and distribution shall be done in accordance with the provisions of chapter 44 of the local and general laws of 1852, so far as the same are applicable.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and therefore it shall be in force from and after its passage.

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## CHAPTER LXXVIII.

AN ACT to prohibit profanity.

[APPROVED MARCH 2, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That every person of the age of eighteen years and upwards who shall profanely curse, swear, aver, or imprecate by, or in the name of God, Jesus Christ, or the Holy Ghost, shall be deemed guilty of profanity, and, on conviction thereof, shall be fined in the sum of not less than one nor more than three dollars for each offence.

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## CHAPTER LXXIX.

AN ACT to provide for the punishment of persons interfering with Trains on Railroads.

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any person who shall shoot a gun, pistol, or other weapon, or throw a stone, stick, clubs, or any other substance whatever at or against any locomotive, or car, or train of cars containing persons, on any railroad in this State, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than ten nor more than one hundred dollars, and imprisoned in the county jail not less than ten days nor more than three months. Persons interfering with trains in any manner, guilty of misdemeanor. Penalty

SEC. 2. In case any person on such locomotive, car, or train of cars shall be injured or wounded by any such act, the person so offending shall, on conviction, be deemed guilty of assault, with intent to commit murder, and be imprisoned in the State's Prison for not less than one nor more than four years; and if death ensue, such person shall be deemed guilty of murder in the first degree, and punished accordingly. If injury occur to any person, person so interfering guilty of assault with intent to murder. Penalty.

SEC. 3. In case of prosecution under this act, it shall not be deemed necessary in the information or indictment to name or set out the names of persons injured or wounded, except in case of prosecution for murder. Not necessary to name person injured except in prosecution for murder.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage and publication in the Indiana State Sentinel and Indiana State Journal. Emergency.

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## CHAPTER LXXX.

AN ACT providing for an investigation of the affairs of the Madison and Indianapolis Railroad Company, authorizing a compromise therewith, if deemed of advantage to the State, and providing for the payment of said Company's floating and unfunded debt, and of certain debts of the Columbus and Shelby Railroad Company, and em-

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powering said Madison and Indianapolis Railroad Company to receive, hold, and transfer stock in the Columbus and Shelby Railroad Company.

[APPROVED MARCH 1, 1855.]

WHEREAS, It is represented to this General Assembly that the Madison and Indianapolis Railroad Company is greatly embarrassed in its pecuniary affairs, and that in consequence of such embarrassment said company is unable to discharge its indebtedness to the State, and that there is danger that the claim of the State will be lost; AND WHEREAS, it is further represented that a part of such indebtedness can be secured to the State by compromise, and thereby at least something be saved; therefore,

Governor, T. S. Stanfield and E. Newland appointed commissioners.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Governor, together with Thomas S. Stanfield and Elijah Newland, Trustee, be and they are hereby appointed commissioners to investigate the affairs of the Madison and Indianapolis Railroad Company, and if, upon such investigation, they or a majority of them shall deem that the interests of the State will thereby be promoted, it shall be their duty to make such settlement and compromise with said company as can be effected, and as will secure to the State the greatest amount that can be secured: *Provided, however*, That such amount shall not be less than seventy-five thousand dollars of the five per cent. stocks of this State.

Proviso.

Amount to be secured to State.

SEC. 2. It shall be a fundamental condition of any such compromise that the amount agreed upon shall be secured to the State by undoubted security.

Commissioners to have power to agree upon details of any compromise, &c.

SEC. 3. Said commissioners shall have full power, in pursuance of this act, to agree upon the details of any such compromise, and the time and manner of payment, and the kind of security; and upon making any such compromise, may execute all acquittances, releases, discharges and conveyances which may be necessary or proper in the premises, all of which shall be binding upon the State.

Commissioners to take oath before entering upon their duties.

SEC. 4. Such commissioners shall, (except the Governor), before entering upon their duties, take and subscribe an oath that they will faithfully and honestly discharge their duties.

Gov. to secure interest of State and collect indebtednes of R. R. Co. if commissioners consent

SEC. 5. If said commissioners shall deem that the interests of the State will not be promoted by any compromise which can be made, it shall then be the duty of the Governor to take such steps as he may deem

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useful to secure the interests of the State, and to secure and collect the indebtedness of said Railroad Company to the State, either by suit or otherwise.

Commissioners to report to next Legislature.

SEC. 6. A majority of said commissioners concurring shall be sufficient in the determination of any question which may arise in the discharge of their duties, and they shall report to the next session of the General Assembly a statement of all offers, propositions, and negotiations which may be made between themselves and said company, and such other information as will give a correct understanding of the subject and of the acts of said commissioners to the General Assembly.

Said company shall not pay any dividend to stockholders until all her floating or unfunded debts are paid.

SEC. 7. Said Madison and Indianapolis Railroad Company shall not declare or pay any dividends, or make any other distribution to her stockholders of the receipts of the road until all her floating or unfunded debts are paid, nor until said company shall pay, or cause to be paid, all the debts of the Columbus and Shelby Railroad Company incurred for labor, right of way, or materials, other than iron used in the construction of said road, and for any violation of the foregoing provision, the directors who shall vote for such dividend and the officers who shall pay the same, shall be individually liable to the parties aggrieved for the amount so diverted: *Provided*, That all the right, title, and interest of the State in said road, when conveyed, shall vest in said company as aforesaid, subject to the payment of all the debts specified in this section, which debts are hereby declared to be a charge upon said interest when so released or conveyed: *And provided further*, that the Madison and Indianapolis Railroad Company shall not be required to pay any portion of the debts of the Columbus and Shelby Railroad Company as above provided, unless the Columbus and Shelby Railroad Company shall deliver to said former company certificates of shares in the capital stock of said latter company to the amount of the advances heretofore made, and from time to time for such sums as shall be paid by the said Madison and Indianapolis Railroad Company in liquidation of said debts; and said Madison and Indianapolis Railroad Company shall have a right to receive, hold and dispose of said stock as other shareholders in said Columbus and Shelby Railroad Company.

Officers voting for payment of dividend individually liable to parties aggrieved

Proviso.

Further proviso.

Emergency.

SEC. 8. There being, in the opinion of this Legislature, an emergency requiring the immediate action of the State, this act shall take effect and be in force from and after its passage.

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# CHAPTER LXXXI.

AN ACT to enable railroad companies to compromise with mortgagees, and convey part of the road mortgaged in satisfaction of the mortgages, and to provide a mode of assessing damages for right of way when the road has been built before such right of way is fully settled for, and to enable the vendees on such settlement and conveyance to hold and enjoy the part so conveyed in satisfaction of such mortgage.

[APPROVED FEBRUARY 26, 1855.]

Company, with consent of persons owning majority of capital stock, may settle and compromise with mortgagees.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That if any railroad company has heretofore executed, or may hereafter execute, any mortgage upon the whole or any portion of their road, it shall be lawful for such company, with the consent of persons owning a majority of the capital stock of such company to settle and compromise with such mortgagees, and release and convey to such mortgagees or creditors, for whose benefit such mortgage is or may be held, such part of the road mortgaged, and upon such terms as may be agreed upon; and thereafter such vendees, by such name as they may assume, shall possess, own and enjoy all the rights, privileges and immunities of said company over the part of the road so conveyed, and no act or omission of the company making the conveyance shall work a forfeiture of their franchises over that part of the road so conveyed. And such vendees, by the name by them assumed, shall be a body corporate and politic, with the rights, privileges, franchises, and immunities, as aforesaid, and may issue stock not exceeding twenty thousand dollars per mile, and sell the same, and issue certificates therefor, which shall be assignable upon such terms as they may prescribe; and

When there shall be any failure of title to any right of way, or when title thereto has not been acquired, company owning road or party owning land to apply to the proper court for assessment of damages.

if from any cause there shall be any failure of the title to any right of way, or when the title thereto has not been acquired upon which any railroad of this State is now constructed, it shall be lawful for the company owning the road, or for the party owning such lands upon which any part of the road is constructed, to apply to the proper court for the writ of assessment of damages, and have the damages which the owner of said property has sustained or may sustain, by reason of the taking, use and occupancy thereof, by the company, for the construction and maintenance of said road, and upon assessment and payment, by the company, of the damages which may be assessed or awarded, the title to such property shall vest absolutely in the company for the purposes of the said railroad; and the business of no

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road actually constructed shall be obstructed by reason of any such defect of title to any part of the property upon which it may be built, unless there shall be default in the payment of money awarded after the verdict shall have been rendered and judgment thereon; but every company having actually constructed and having in operation said road, shall be entitled to maintain the same, and avail itself of the privilege of this section, whenever from any cause its rights of way for the track occupied is not perfect and absolute: *Provided*, that no such compromise or conveyance shall be made until thirty days notice has been given of the intention so to do, by publication in some newspaper published in this State, in the county in which the principal office of such company is kept. Proviso.

SEC. 2. It is declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage. Emergency.

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## CHAPTER LXXXII.

AN ACT to amend the first and fourth sections of an act entitled "An act authorizing Recorders to make out complete or general indexes to records of deeds and mortgages, and to procure and use seals," approved February 16th, 1852.

[APPROVED FEBRUARY 14, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of an act entitled "An act authorizing recorders to make out complete or general indexes to records of deeds and mortgages, and to procure and use seals," approved February 16th, 1852, which is in the following words, to wit: "Section 1. *Be it enacted by the General Assembly of the State of Indiana*, That each recorder in this State is hereby authorized and required, within a reasonable time after the passage of this act, to make out, when the same has not previously been done, a complete or general index to all the records of deeds for real estate in his office. Such index shall be a double index, giving the name of each grantor alphabetically, and also of each grantee in the same order, together with the number or letter of the book and the page in which each deed is recorded," be and the same is hereby amended so as to read as follows: *Be it enacted by the General Assembly of the State of Indiana*, That each recorder Sec. 1 amended. How amended.

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in this State is hereby authorized and required, within a reasonable time after the passage of this act, to make out, where the same has not been done, a complete or general index to all the records of deeds for real estate in his office. Such index shall be double, giving the name of each grantor and grantee alphabetically, a concise description of the premises, the date of the deed, together with the number or letter of the book, and the page in which each deed is recorded.

Sec. 4 amended.

SEC. 2. That the fourth section of said act entitled "An act authorizing recorders to make out complete or general indexes to records of deeds and mortgages, and to procure and use seals," which section is in the following words, to wit: "The board doing county business shall allow the recorder, out of the county treasury, such compensation for making out such complete or general indexes as shall be deemed reasonable and just; and it shall be the duty of such recorder to keep up and continue such index, in the manner aforesaid, as deeds and mortgages shall from time to time be recorded," be and the same is hereby amended to read as follows, to wit:

How amended.

The board doing county business shall allow the recorder, for making such complete or general indexes, fifteen cents for each hundred words contained in the same: *Provided, however*, that nothing in this section contained shall be construed to require the said board to make further allowances to any recorder on account of work done under the law hereby amended than was stipulated and agreed upon, or than what has been paid and accepted for such service.

Recorder shall keep such index as deeds and mortgages shall from time to time be recorded without additional pay.

SEC. 3. After the completion of such indexes, it shall be the duty of such recorder to keep up such index, in the manner aforesaid, as deeds and mortgages shall from time to time be recorded, without any compensation beyond or apart from the fees allowed by law for recording such deeds or mortgages.

Emergency.

SEC. 4. This act is hereby declared one of emergency, and shall be in force from and after its passage.

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## CHAPTER LXXXIII.

AN ACT to raise a revenue for State purposes, for the years 1855 and 1856.

[APPROVED MARCH 2, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That a tax for State purposes shall be and is hereby authorized and directed to be levied upon each one hundred dollars of the value of all property entered for taxation in the general list of taxables for the years 1855 and 1856, as follows, to wit: For the year 1855, twenty cents on each one hundred dollars, and fifty cents upon each poll subject by law to taxation; and for the year 1856, twenty cents on each one hundred dollars, and fifty cents upon each poll subject by law to taxation.

Twenty cents on each $100 and 50 cents on each poll subject by law to taxation.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, in order that the same may at once come to the hands of the several collecting officers through the State. Therefore, this act shall be in force from and after its passage and publication in the Indiana State Sentinel and in the Indiana State Journal.

Emergency.

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## CHAPTER LXXXIV.

AN ACT for the protection of the Sabbath, and providing penalties for the desecration thereof.

[APPROVED FEBRUARY 28, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That if any person of the age of fourteen years and upwards, shall be found, on the first day of the week commonly called Sunday, rioting, hunting, fishing, quarreling, at common labor, or engaged in their usual avocations, works of charity and necessity only excepted, such person shall be fined in any sum not less than one nor more than ten dollars; but nothing herein contained shall be construed to affect such as conscientiously observe the seventh day of the

Penalty for violating Sabbath day.

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week as the Sabbath, travelers, families removing, keepers of toll-bridges and toll-gates, and ferrymen, acting as such.

Jurisdiction. SEC. 2. That in all cases arising under the provisions of this act, justices of the peace and courts of common pleas shall have concurrent jurisdiction.

Prosecutions. SEC. 3. Prosecutions under this act shall be commenced within one year next after the commission of said offenses.

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## CHAPTER LXXXV.

AN ACT to provide for the sale of the Saline Lands remaining unsold.

[APPROVED MARCH 1, 1855.]

County auditors, where any saline lands remain unsold, to advertise. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor of any county where any portion of the Saline Lands may remain unsold, shall proceed, immediately upon the taking effect of this act, to advertise the same for sale, by publication for sixty days in some newspaper published in their respective counties, if any, otherwise in a newspaper nearest thereto, and also by printed notices set up in three public places in each township in such county.

Lands not to sell for a less sum than fifty cents per acre, cash. SEC. 2. Such sale shall be at public auction, in legal subdivisions, at the court house door, for a sum not less than fifty cents per acre, and for cash only; said sale shall continue, from day to day, until all has been offered.

If no bids are made equal to minimum price, auditor shall hold the same subject to private entry. SEC. 3. Upon such lands being offered at public sale, and no bid therefor equal to the minimum price fixed by this act, the auditor of the county shall hold the same subject to private entry at the minimum price, and for cash only: *Provided, however*, that if any of said lands remain unsold, after twelve months from the time they were first offered, they shall be subject to entry at twenty-five cents per acre.

Proviso.

County auditor to execute deed to purchaser. SEC. 4. The county treasurer shall receive payment for all such lands; and upon full payment therefor, the county auditor shall execute to the purchaser a deed therefor, which shall vest in him the title, which deed shall be recorded in the records of the board of county commissioners and delivered to the purchaser.

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SEC. 5. The county treasurer shall receive two per cent. on all moneys received on account of such sale, and the county auditor three per cent., and for each and every deed made and recorded by the auditor, he shall be entitled to charge and receive one dollar from the purchaser or person to whom such deed is made. Fees.

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## CHAPTER LXXXVI.

AN ACT to provide for a general system of Common Schools, the officers thereof, and their respective powers and duties, and matters properly connected therewith, and to establish Township Libraries, and for the regulation thereof.

[APPROVED MARCH 5, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be annually assessed and collected, as the State and county revenues are assessed and collected, on the list of property taxable for State purposes, the sum of ten cents on each one hundred dollars worth of property, and fifty cents on each poll: *Provided, however*, that the taxes aforesaid shall not be levied and collected from negroes nor mulattoes, nor shall their children be included in any enumeration required by this act, nor entitled to the benefits thereof. Tax. Proviso.

SEC. 2. The funds heretofore known and designated as the surplus revenue fund, all fund heretofore appropriated to common schools, the saline fund, the bank tax fund, the fund which has been or may be derived from the sale of the county seminaries and the property belonging thereto, the moneys and property heretofore held for such seminaries, all fines assessed for breaches of the penal laws of this State, all forfeiture which may accrue, all lands and other estate which shall escheat to the State for want of heirs or kindred entitled to the inheritance, all lands which have been or may be hereafter granted to the State, when no special object is expressed in the grant, and the proceeds of the sales thereof, including the proceeds of the sales of the swamp lands granted to the State of Indiana by the act of Congress of the 28th September, 1850, after deducting the expenses of selecting and draining the same, the taxes which may from time to time be assessed upon the property of corporations for common school purposes, the fund arising from the 114th section of the charter of the What to constitute common school fund.



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State Bank of Indiana, and unclaimed fees as provided by law, shall be denominated the common school fund, the income of which, together with the taxes mentioned and specified in the first section of this act, shall be applied exclusively to furnishing tuition in the common schools of the State.

Counties liable for fund.

SEC. 3. The several counties of this State shall be held liable for the preservation of so much of the said fund as is entrusted to them, and for the payment of the annual interest thereon at the rate established by law.

Civil townships to be school townships.

SEC. 4. Each civil township in the several counties in this State is hereby declared a township for school purposes, and the trustees for such townships, trustees for school purposes, and their clerk and treasurer shall be the clerk and treasurer for school purposes.

Duties of clerk.

SEC. 5. The clerk shall keep a record of the proceedings of the board of trustees, and discharge such duties as may from time to time be required of him.

Bond of treasurer.

SEC. 6. The treasurer shall give an official bond for the use of the township, to be approved by the board, in such sum and with such security as the board may require, which bond shall be filed in the office of the Clerk of the Circuit Court, and by him shall be recorded in the record of official bonds.

Duties of treasurer.

SEC. 7. The treasurer shall receive all moneys belonging or which may be apportioned to his township, and pay out the same upon the orders of the board. He shall keep accurate accounts of his receipts and expenditures, and settle with the board at least once in each year, and as often as they may require. And, upon the failure of any such treasurer to discharge any of the duties enjoined on him by law, the trustees shall cause suit to be instituted against him, on his official bond; and in case of recovery against him, the Court rendering judgment shall assess upon the amount thereof ten per cent. damages, to be included in said judgment.

Duty of board.

SEC. 8. The board of trustees shall take charge of the educational affairs of the township, employ teachers, subject to the provisions hereafter mentioned, and shall establish and conveniently locate a sufficient number of schools for the education of the children therein. They may also establish graded schools, or such modifications of them as may be practicable.

Trustees to levy a tax for construction and repair of school houses.

SEC. 9. They shall have power to levy a tax in their respective townships for the construction and repair of school houses, and for the providing of furniture and fuel therefor; but no such tax shall exceed the sum of twenty-five cents on each one hundred dollars of pro-

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perty, and fifty cents on each poll, in any one year, and they may credit each tax-payer upon such levy with two-thirds of any tax paid, or donation made for the building of school houses, within five years prior to the taking effect of the act of 14 June, 1852; and they shall levy taxes to pay any amounts due for the erection of school houses, which were in whole or in part erected under the provisions of an act entitled "An act to provide for a general and uniform system of common schools and school libraries, and matters properly connected therewith," approved June 14, 1852. And any tax-payer who may choose to pay to the treasurer of the township wherein said tax-payer has property liable to taxation, any amount of money, or furnish building materials for the construction of school houses, or furniture, or fuel therefor, shall be entitled to a receipt from the trustees of said township, which shall exempt such tax-payer from any further taxes for said purposes until the taxes of such tax-payer, levied for said purposes, would, if not thus paid, amount to the sum or value of the materials so paid: *Provided*, that said building materials or furniture and fuel shall only be received at the option of the proper township trustees.

Tax payers entitled to receipts from township trustees.

Proviso.

SEC. 10. The trustees shall, on or before the twentieth day of September in each year, make an enumeration of the children within their respective townships, distinguishing those between the ages of five and twenty-one, and the sex to which such children belong, and excluding married persons, and at the time of making the first enumeration hereafter shall inquire of the parents or guardians of such children, or persons having charge of them, to which school they desire to attach themselves; and upon making their selection, such persons shall be considered as forming the district or association for school purposes of the school selected, and no one shall be allowed thereafter to attach themselves to, or have the privilege of any other school, but by the consent of the trustees, for good cause shown.

Enumeration.

SEC. 11. In making the enumeration of the children, the trustee making the same shall specify the congressional township in which such children reside, and in making report of such enumeration, the number of children in each congressional township shall be set out, which report shall be filed with the proper county auditor on or before the first day of October in each year.

Report containing enumeration of children, and where they reside, when to be filed with county auditor.

SEC. 12. When a congressional township is located in two or more counties, the number of children in each portion thereof, in the several counties, shall be furnished to the auditor of the county where the account of

Number of children to be furnished auditor.

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the congressional fund of such township is kept, on or before the said first day of October in each and every year.

Trustee may transfer scholars from one township to another.

SEC. 13. When persons can be better accommodated at the school of an adjoining township, the trustees of the township in which such persons reside shall transfer them for educational purposes to such adjoining township, and notify the trustees thereof of such transfer, and in any enumeration the children of such persons shall be regarded as belonging to the township to which they have been transferred, and such persons shall, for educational purposes, be voters in such adjoining township only.

Proportionable part of congressional fund to be transferred with scholars.

SEC. 14. When persons have been so transferred to an adjoining township, the board of trustees of the township in which they reside shall pay over to the township to which they have been transferred their proportional share of the avails of the congressional township fund, to which they may be entitled, for their use.

Duty of auditor in reference to township tax.

SEC. 15. When a tax shall be levied for the purposes hereinbefore mentioned in any township, the trustees shall make out and file with the county auditor a list of the persons who have been transferred for educational purposes to an adjoining township, and also of such persons as may have been transferred from an adjoining township to the township in which such tax is levied. and the auditor in making the assessment of such tax shall exclude such persons as may have been transferred from the township, and include such persons as may have been transferred to it, but such assessment shall only extend to the property situated within the township in which such person resides.

Tax to be collected by county treasurer as other revenue, and how paid out.

SEC. 16. The county auditor shall take the assessment of the property for State and county purposes, and shall make the proper assessment of the tax directed by the township trustees, in the same manner as for State and county revenue, and shall add the amount of said tax to his duplicate, in an appropriate column, and the taxes shall be collected by the county treasurer as other revenues, and shall be paid to the township treasurer upon the warrant of the auditor.

Taxes, how assessed in case of persons transferred.

SEC. 17. Each person transferred for educational purposes to a township of an adjoining county, shall pay to the treasurer of such township (when a tax is levied therein for the purpose aforesaid) a sum equal to the tax levied, computing the same upon the property of such person in the township where he resides, according to the valuation thereof, by the proper assessor, and, in default of such payment, shall be debarred from educa-

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tional privileges in the township to which he may have been transferred, and the trustees thereof shall notify the trustees of the township in which he resides of such exclusion.

When the board fails to file an enumeration, auditor to procure it done.

SEC. 18. When any board of township trustees shall neglect to file with the county auditor an enumeration of the children of the township, as hereinbefore provided, the county auditor shall, within twenty days after the first day of October in each year, employ a competent person to take the same, and allow a reasonable compensation for such services, and shall proceed to recover the same, in the name of the State of Indiana, for the use of common schools, by action against the said trustees in their individual capacity, and in such suit the auditor shall be a competent witness.

Action against township trustee.

SEC. 19. If a township trustee fail to discharge any of the duties of his office, any person may maintain an action against him for every such offense, in the name of the State of Indiana, and may recover for the use of the common school fund any sum not exceeding ten dollars.

Penalty against trustee for failing to serve.

SEC. 20. Any person elected or appointed a township trustee, who shall fail to qualify and serve as such, shall pay the sum of five dollars, to be recovered as specified in the preceding section, for the use therein named, unless such person shall have previously served as such trustee.

Powers and duties of incorporated cities.

SEC. 21. Incorporated towns and cities shall constitute school corporations, independent of the townships in which they may be situated, and shall be entitled to the proportional amount of school funds to which the number of children between the ages prescribed by law will entitle them, and shall, by trustees elected by the people, or by officers appointed by the corporation, perform all the duties required of township trustees, and exercise all the powers vested in such trustees, prepare and file with the county auditor all the reports required of and be subject to all the liabilities of such trustees. They shall have power to establish graded schools, and generally to do and perform all other acts which by this act are authorized to be done and performed by township trustees: *Provided, however*, that in case any school district within the limits of such city or town shall have heretofore contracted debts for school purposes, such city or town shall make provision for the payment thereof. The same transfers may be made for educational purposes from the neighborhood of any such city or town to such city or town, and on the same terms and conditions as are hereinbefore provided in relation to transfers from one township to another.

Proviso.

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Trustees of townships, and of towns and cities, to make a full statement, on or before 1st day of October of each year,

SEC. 22. Township trustees and the trustees of towns and cities, and officers appointed by such towns and cities to manage their educational concerns, shall annually, on or before the first day of October, make a full statement of all their proceedings, receipts, and expenditures, for the year preceding, and shall cause the same to be published, by posting the same in three public places in their respective townships or corporate limits.

Teacher to report to township trustees, showing number of scholars admitted during term, &c.

SEC. 23. To enable township trustees to make the reports which are required of them by this act, the teacher of each and every school shall, at the expiration of the term of the school for which he shall have been employed, furnish a complete report to such trustees, verified by affidavit, showing the number of scholars admitted during the term, distinguishing between males and females, and between the ages of five and twenty-one, and also those over the age of twenty-one years, the average attendance, books used, branches taught, and number of pupils engaged in the study of each branch; and until such report shall have been so filed, such trustees shall make no payment to such teacher for services.

Teachers in incorporated towns or cities to report &c.

SEC. 24. Teachers employed in incorporated cities and towns shall make the same reports to the officers having charge of the schools of such cities and towns.

Duty of township trustees in relation to their reports to county auditors.

SEC. 25. The township trustees shall, in their report to the county auditor of the enumeration of the children of their respective townships, furnish to the county auditor the statistical information obtained from the teachers of the schools of their respective townships.

Duty of county auditors to State Superintendent.

SEC. 26. The county auditor shall, on or before the first Monday of November, annually, make out and forward to the State Superintendent the enumeration of their respective counties, with the same particular discrimination required of the township trustees; he shall also furnish the statistical information exhibited in the reports of such trustees, in such form as may be prescribed by the Superintendent.

Schools to be taught an equal length of time.

SEC. 27. The schools in each township shall be taught an equal length of time, without regard to the diversity in the number of pupils at the several schools.

OF THE LANDS BELONGING TO THE CONGRESSIONAL TOWNSHIP FUND.

Trustees to have control of school lands.

SEC. 28. The custody and care of all lands belonging to the congressional township fund shall be with the trustees of the civil township in which the same shall be situated.

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May lease them.

SEC. 29. They shall have power, when directed so to do by a vote, or by the written direction of a majority of the voters of the congressional township to which the same belongs, to lease such lands for any term not exceeding seven years, reserving rents payable in money, property, or improvements upon the land as may be directed by the majority of such votes.

If the 16th section, or the one granted in lieu thereof, be divided by county or township line, who to have care and custody of sec., and by what authority.

SEC. 30. Where the sixteenth section, or the section which may be granted in lieu thereof, shall be divided by a county or civil township line, the voters of the congressional township to which the same belongs, shall designate by a vote or by the written direction of a majority, the trustees of one of the civil townships including a part of the said section, to have the care and custody of such section, and to carry out the directions of the voters of the congressional township in relation thereto, and the trustees so designated shall have the same powers and perform the same duties as if the entire section was situated within the limits of their civil township.

Trustees to have rights and powers of a landlord.

SEC. 31. Such trustees shall have all the rights and powers of a landlord, in their official name, in coercing fulfillments of contracts relating to such lands and preventing waste or damage, or of recovery for the same when committed.

Proceedings upon petition to sell land.

SEC. 32. At any time when five voters of any congressional township shall, by petition to the trustees having charge of the school land belonging to such township, set forth their desire for the sale of all or any part of the school land, the trustees shall give notice in five public places in such township of the time and place in such township when and where a balloting will be had to determine whether the land shall be sold as petitioned for or not, which notice shall be given at least twenty days before the time specified therein.

Copy of petition to be entered.

SEC. 33. A copy of such petition shall be entered on the book containing the record of the proceedings of such trustees, and their action thereon shall also be recorded.

Manner of voting.

SEC. 34. If a voter favor the sale of such land he shall write on his ballot the word "sale," if he oppose the sale he shall write the words "no sale."

Majority must vote favorable.

SEC. 35. No such sale shall be allowed unless a majority of all the votes cast in such township shall vote in favor of it, nor unless the number of votes constituting such majority shall exceed fifteen.

Certificate of votes.

SEC. 36. One of the trustees, to be designated by the board, shall attend at the time and place specified, who shall make out a certificate showing the number of

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votes given for and against such sale, which shall be signed by him, and delivered to the board of township trustees, who shall enter the same upon their record book.

Proceedings upon return of the vote.

SEC. 37. Such trustees, if satisfied that a majority and more than fifteen voters have voted for such sale, shall enter their opinion upon their record book, and proceed,

*First*—To divide the lands so voted to be sold into such lots as will insure the best price.

*Second*—To affix a minimum price to each lot, not less than one dollar and twenty-five cents per acre, below which it shall not be sold.

*Third*—To certify such division and appraisement to the proper county auditor, together with a copy of all their proceedings had in relation to the sale of said lands.

Certificate and return to be laid before county commissioners, who shall direct land to be sold.

SEC. 38. Such certificate and return shall by such auditor be laid before the board of county commissioners at their first meeting thereafter, and said board, if satisfied that the requirements of the law have been substantially complied with, shall direct such land to be sold, which sale shall be conducted as follows:

*First*—It shall be made by the auditor and treasurer.

*Second*—Four weeks' notice of the same shall be given by posting up notices thereof, in three public places in the township where the land is situated, and at the court house door, and by publication in a newspaper published in said county, if any, otherwise in the newspaper in the State, nearest thereto.

Terms of sale.

SEC. 39. One fourth of the purchase money shall be paid in hand, and interest for the residue for one year in advance, and the residue in ten years from such sale, with like interest annually in advance.

When contract to be forfeited.

SEC. 40. On failure to pay any such annual interest when the same becomes due, the contract shall become forfeited, and the land shall immediately revert to the township, and the auditor and treasurer shall forthwith proceed again to sell the same on the terms above specified.

Proceeds of second sale.

SEC. 41. If on such second sale, such land shall produce more than sufficient to pay the sum owing therefor, with interest and costs, and five per cent. damages, the residue shall, when collected, be paid over to the first purchaser, or his legal representative.

How original revived.

SEC. 42. At any time before sale, payment of the sum due with interest for the delay, and all costs, together with two per cent. damages on the sum due for said land, shall prevent such sale and revive the original contract.

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In case of waste.

SEC. 43. In case of such forfeiture, the original purchaser may be sued for waste or unnecessary injury done to such land.

Suit.

SEC. 44. Such suit shall be prosecuted by the auditor in the name of the State, for the use of the proper congressional township.

Private sale.

SEC. 45. When any land offered for sale, at public auction, shall remain unsold, the county auditor may dispose of the same at private sale for the best price that can be had therefor, not being less than the minimum price affixed thereto.

Statement of sale.

SEC. 46. A certified statement of such sale shall be made and signed by the auditor, and being first recorded by such auditor in the records of the board of county commissioners, shall be delivered to the purchaser when he makes his first payment, and shall entitle him to a deed when the terms of such purchase shall have been fully complied with.

Right of purchaser.

SEC. 47. Every purchaser until forfeiture, shall be entitled to all the rights of possession before existing in such trustees or townships, and to all rights and remedies for rents becoming due, or breaches of covenant accruing after his puchase, under any lease existing at the time of his purchase, and for all waste committed thereafter.

Ten per cent. damages in case of failure.

SEC. 48. A purchaser at such sale failing to make the first payment as above required, shall pay ten per centum on the sum bid, to be recovered by action before any court having jurisdiction, to be prosecuted for by the county auditor in the name of the State, for the use of the proper township, and the auditor and treasurer shall be competent witnesses.

Assignment.

SEC. 49. Assignments of certificates of purchase shall be valid only, if acknowledged before the county auditor, who shall record the same.

Payment of interest on residue to entitle purchaser to retain loan.

SEC. 50. When a residue of purchase money becomes due, the purchaser may retain the same as a loan, for a term not exceeding three years, on payment annually in advance of the interest thereon, at the rate then established by law for loans of such funds, but he shall receive no deed until full payment is made.

Purchaser may pay at any time.

SEC. 51. Purchasers may at any time before due, pay a part or the whole of such purchase money.

In case of lost or destroyed certificates.

SEC. 52. When any such certificate shall be lost or destroyed before a deed be made, on proof thereof by affidavit of the person interested, or other competent testimony to be filed with the county auditor, and after three months' notice of intention to apply for a new certificate given in some newspaper published nearest to

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where the land lies, such auditor may issue the same to the person entitled thereto.

Purchase money to be paid to the treasurer, &c.

SEC. 53. Purchase money and interest, and all costs and damages above provided for, shall be paid to the treasurer of the proper county, and his receipt therefor filed by the person paying with the county auditor, who shall issue his quietus therefor.

Amount of receipt to be endorsed on certificate.

SEC. 54. When such payment is in completion of any contract of sale, the amount of such receipt shall be endorsed by the county auditor on the certificate of purchase.

Deed.

SEC. 55. On full payment for such land, a deed shall be executed by the county auditor and entered on the record book of the board of the county commissioners.

Acknowledgment at whose cost.

SEC. 56. Such deed shall be executed and acknowledged at the cost of the grantee by the county auditor as in other cases, and thus executed and delivered, shall vest the grantee, his heirs and assigns forever, a complete title to the land.

Petition for sale of lands.

SEC. 57. The voters of any congressional township may, in the absence of a vote to sell land, and in lieu thereof, petition the proper board of township trustees for such sale, and such petition, if signed by a majority of all the voters of the township, shall be filed with the county auditor, and the same proceedings shall be had as are provided in the preceding sections upon a vote of the inhabitants of the township for such sale. Such petition and certificate shall also be recorded in the record book of the board of township trustees and of the county auditor.

OF THE INVESTMENT OF FUNDS HELD FOR THE BENEFIT OF COMMON SCHOOLS AND CONGRESSIONAL TOWNSHIPS.

Principal of fund to be loaned and judgment to bear seven per cent. interest from date.

SEC. 58. The principal of all moneys, whether belonging to the common school fund or to the congressional townships, and received into the county treasury, shall be loaned, and the interest paid out, as prescribed in this act; and any judgment upon any such note or mortgage shall bear seven per cent. interest from the date thereof till the same is paid.

Loans to be made by county auditor.

SEC. 59. Such loans shall be made by the county auditor, who shall inform himself of the value of all real estate offered in mortgage, and be satisfied of the validity of the title thereof, and all persons applying for a loan shall produce to said auditor title papers, showing a clear title in fee simple, without incumbrance, and not derived through any executor's or administrator's sale, or sale on execution, or sale for taxes.

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Appraisement.

SEC. 60. The township trustees, or three disinterested freeholders of the neighborhood, shall appraise any land offered in mortgage.

Duty of appraisers.

SEC. 61. Such appraisers, being first officially sworn, shall examine and appraise such land, and sign and give to the applicant a certificate, setting forth the fair cash value of the land at the time, without taking into consideration perishable improvements.

Reference to inhabitants of county.

SEC. 62. In making such loans preference shall be given to the inhabitants of the county if the security be adequate, and no land shall be received as security unless situated in the county where the loan is made.

SEC. 63. The amount loaned to any person or company shall not exceed three hundred dollars.

Incumbrances.

SEC. 64. The applicant for a loan shall file with the auditor the certificate of the clerk and recorder, showing that there is no incumbrance on said land in either of their offices.

Oath of title.

SEC. 65. Such applicant shall also make oath that there is no incumbrance or better claim that he knows of, and that the abstract of title presented by him is, as he believes, a true one.

Time of loan.

SEC. 66. No such loan shall be made for a longer term than five years.

Not to exceed one half appraised value.

SEC. 67. The sum loaned shall not exceed one-half of the appraised value of the premises proposed to be mortgaged, clear of all perishable improvements.

Oath.

SEC. 68. The auditor shall have power to administer all oaths and take all acknowledgments required by this act.

Record of mortgages, and to have priority of all mortgages not previously recorded.

SEC. 69. Mortgages taken for such loans shall be considered as of record from the date thereof, and shall have priority of all mortgages or conveyances not previously recorded, and of all other liens not previously incurred in the county where the land lies.

Cost of recording.

SEC. 70. The auditor shall cause such mortgages to be recorded immediately, retaining the cost of recording out of the money borrowed.

Rate of interest 7 per cent.

SEC. 71. The rate of interest shall be seven per centum per annum, payable annually in advance.

When the note and mortgage may be proceeded on.

SEC. 72. On failure to pay any installment of interest when the same becomes due, the principal sum shall forthwith become due and payable, and the note and mortgage may be proceeded on and collected.

Form of mortgage.

SEC. 73. The mortgage may be in substance as follows, and the auditor shall specify therein whether the same belongs to the common school fund or to the congressional township fund, and if to the latter, the particular township whose funds are thus loaned.

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FORM OF THE MORTGAGE.

SEC. 74. I, A. B., of the county of ——, in the State of Indiana, for the use of (here describe the fund out of which the loan is made) mortgage all (here describe the land) for the payment of —— dollars, with interest at the rate of seven per cent. per annum, payable annually in advance, according to the conditions of the note hereto annexed.

Form of note.

SEC. 75. The note accompanying the same may be in substance as follows, to wit: I, A. B., promise to pay to the State of Indiana, for the use (here recite the particular fund) on or before the —— the sum of —— dollars, with the interest thereon, at the rate of seven per cent. per annum, in advance, commencing on the —— day of ——, 18—, and do agree that in case of failure to pay an installment of said interest when the same shall be due, the principal sum shall become due and payable, together with all arrears of interest; and on failure to pay such principal or interest when due, two per cent. damages shall be collected, with costs, and the premises mortgaged may be forthwith sold by the county auditor for the payment of such principal sum, interest, damages and costs.

Warrant on whom drawn.

SEC. 76. On making loan of any fund, the auditor shall draw his warrant in favor of the borrower upon the county treasurer, who shall charge it to the proper fund.

Loans and interest paid to treasurer.

SEC. 77. All loans refunded, and all interest, shall be paid to the county treasurer, and his receipt shall be filed with the county auditor, who shall give the payer a quietus therefor, and make the proper entries.

Satisfaction, when made.

SEC. 78. Whenever the amount due on any mortgage shall be paid, and the treasurer's receipt therefor filed, the auditor shall indorse on the note and mortgage that the same have been fully satisfied, and surrender the same to the person entitled thereto; and on the production of the same thus indorsed, the recorder shall enter satisfaction upon the record.

When auditor may bring suit.

SEC. 79. When the interest or principal of any such loan shall become due and remain unpaid, the auditor shall proceed to collect the same by suit on the note, or by sale of the mortgaged premises, or both, at his option; he may also, by suit, recover possession of the mortgaged premises before sale thereof.

SEC. 80. In case of suit on the note and judgment thereon, no appraisement of property shall be allowed.

Notice of sale.

SEC. 81. Before sale of mortgaged premises, the auditor shall advertise the same in some newspaper pub-

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lished in the county where the land lies, if any there be, otherwise in a paper in the State nearest thereto, for three weeks successively, and also by notices set up at the court house door, and in three public places in the township in which the land lies.

Sale.

SEC. 82. At such sale, which shall be held at the court house door, the auditor shall sell so much of the mortgaged premises, to the highest bidder for cash, as will pay the amount due for principal, interest, damages and costs.

When auditor shall bid in, &c.

SEC. 83. In case of no bid for the amount due, the auditor shall bid in the same, on account of the fund, and as soon thereafter as may be, shall sell the same, having first caused it to be appraised by the township trustees, on a credit of five years, interest at seven per cent. per annum, being payable annually in advance, but no such sale shall be for a less sum, than the appraised value thereof.

Land heretofore bought in sold in like manner.

SEC. 84. Lands heretofore bought in, on account of the fund, which have been appraised, shall be sold in like manner.

Deed, when made and where recorded.

SEC. 85. Upon full payment being made for such lands, the deeds therefor shall be executed by the county auditor, and shall be entered in the records of the board of county commissioners before delivery.

Statement of treasurer of sale.

SEC. 86. At the public sale at the court house door, provided for in this act, the county treasurer shall also attend, and make a statement of such sales, which shall be signed by the auditor and treasurer, and after being recorded in the auditor's office, shall be filed in the treasurer's office, and such record, or a copy thereof authenticated by the auditor or treasurer's certificate, shall be received as evidence of the matters therein contained.

Treasurer's statement to vest title in State.

SEC. 87. When any land is bid off by the auditor, at such sale, no deed need be made therefor to the State, but the statement of such sale, and the record thereof, shall vest the title in the State for the use of the proper fund.

Annual report of loans.

SEC. 88. Annual reports of the operations of their respective offices, in regard to loans and payments for school purposes, and to all moneys received on account of the common school fund, and of the congressional township fund, shall be made by the county treasurer and auditor to the board of county commissioners at the first session after the annual distribution of the school fund.

Forms of book keeping, by whom prescribed

SEC. 89. Forms and modes of book-keeping shall from time to time, be prescribed for the county auditors and treasurers, by the Auditor of State.

County commissioners to examine accounts.

SEC. 90. The board of county commissioners shall annually at their first session after the distribution of

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the common school fund, in the presence of the county auditor and treasurer, examine the accounts and proceedings of such officers in relation to the said funds; they shall also inquire into the safety of the several loans made of said funds and examine and compare the cash notes, and mortgages, with the records, books and reports.

Report of board.

SEC. 91. Said board shall make a report of the result of such examination showing:

*First.* The amount refunded, and the amount reloaned, and the safety thereof.

*Second.* The amount of interest received and the amount paid over.

Disposition of such accounts.

SEC. 92. Such report shall be entered on the records of said board, and copies thereof signed by the members of the board, the auditor and treasurer, shall be transmitted to the Auditor of State, and to the State Superintendent of Public Instruction.

Pay of county auditors and treasurers.

SEC. 93. County auditors shall receive for their services in managing the school fund, the two per cent. damages accruing on all sales for the non-payment of loans, and three per cent. on all disbursements of interest, and the county treasurer shall receive two per cent. on all disbursements of interest, and two per cent. on the amount of school tax disbursed.

Fees in case of mortgages and loans.

SEC. 94. The following fees only shall be charged in case of mortgage for loans:

| | |
|---|---|
| To each appraiser, | 50 cents. |
| For recording mortgage, | 50 cents. |
| For drawing mortgage, | 50 cents. |
| For taking borrower's affidavit, | 10 cents. |
| For clerk and recorder's certificate, and examining title, each, | 25 cents. |

Which shall be paid by the borrower.

OF THE DISTRIBUTION OF THE SCHOOL FUND.

County auditor to report annually to Superintendent of Public Instruction.

SEC. 95. The county auditor of each of the several counties of this State, shall, annually, on the fourth Monday of March, make out and forward to the Superintendent of Public Instruction, a statement showing the amount of interest on hand for distribution, in his own county, arising from loans of the congressional township fund, and also the amount on hand for distribution in parts of townships in the adjacent counties, specifying the amount on hand for each of the several counties.

What report shall contain.

SEC. 96. In making such statement, he shall specify the amount of interest belonging to each township and

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parts of townships, and the county in which the same is situated, and where a congressional township lies partly in one county and partly in another, the auditor of the county in which the fund of such township is managed shall, in addition to notifying the superintendent of the amount due to each portion, notify also the auditor of the county in which any portion is situated of the amount due to such portion.

Statement of State Superintendent.

SEC. 97. The State Superintendent shall annually, by the fourth Monday in April in each year, make out a statement showing the number of scholars in each county of the State, the amount of the income of the common school fund in each county for distribution, and the amount of taxes collected for school purposes, and shall apportion the same to the several counties of the State, according to the enumeration of scholars therein, without taking into consideration the congressional township fund in such distribution.

He to file statement with Auditor of State.

SEC. 98. He shall file with the Auditor of State a statement, showing the amount of the income of the common school fund to which each county is entitled, who shall arrange the transfers between the counties, and in case it shall be found inconvenient to draw upon those counties having an excess in favor of those counties having a deficiency, the county treasurer (on being thereto required by the Treasurer of State,) shall pay such excess into the Siate Treasury.

County treasurers to furnish Superintendent statement of income.

SEC. 99. To enable the State Superintendent to make such apportionment, county treasurers, at the time of making their annual settlement, shall furnish to the superintendent a statement of the income of the common school fund in their hands.

Superintendent to inform county auditors of am't entitled to.

SEC. 100. The superintendent shall, immediately after making such apportionment, inform the county auditors of the amount to which their county is entitled of the common school fund.

Duty of county treasurer in regard to distribution.

SEC. 101. The treasurer of the several counties shall annually, on the third Monday of May, make distribution of the income of the common school fund to which his county is entitled, (upon the warrant of the county auditor,) to the several townships and incorporated cities and towns of the county, which payment shall be made to the treasurer of each township, and in making the said distribution, the auditor shall ascertain the amount of the congressional township fund belonging to each city, town, and township, and shall so apportion the income of the common school fund as to equalize the amount of available funds in each city, town, and township, as near as may be, according to the number of

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Proviso.

scholars therein: *Provided, however*, that in no case shall the income of the congressional township fund belonging to any congressional township, or part of such township, be diminished by such distribution and diverted to any other township.

OF THE MANAGEMENT OF THE SCHOOLS.

Township trustees to designate schools by numbers.

SEC. 102. The township trustees shall designate the several schools of their respective townships by numbers, as "School Number —," and the inhabitants, whether residing in or out of the township, who shall have designated any school in such township as the one to which they desire to be attached, as provided in section thirteen of this act, shall meet annually, on the first Saturday of October, at the school house, if there be any, if not, at some convenient place, to be designated in the notice of such meeting, and choose one of their number director of such school, who, before entering upon the discharge of his duties, shall take an oath faithfully to discharge the same.

How directors are chosen.

Director may call meetings at any time.

SEC. 103. Other meetings of such inhabitants may be held at any time, upon the call of the director or any five of the inhabitants.

Notice of meeting

SEC. 104. At least five days' notice shall be given of such school meeting, by posting notices in five public places in the vicinity, but no meeting shall be illegal, for want of such notice, in the absence of fraud.

Powers of school meeting.

SEC. 105. Such school meetings shall have power to designate the teacher whom they desire to teach their school, to determine what branches they desire shall be taught in such school, to designate such repairs as they may deem necessary to their school house, to memorialize the township trustees for the removal of their school house to a more convenient location, or for the erection of a new one, and upon any other subject connected with their school or township.

Duty of petitioners in regard to repairs, &c.

SEC. 106. When such meeting shall petition the township trustees in regard to repairs, removal or erection of a school house, they shall also furnish to such trustees an estimate of the probable cost of such repair, removal or erection.

Duty of trustees in employing teachers.

SEC. 107. The township trustees shall in every case, in which a majority of the inhabitants attached to any school have designated the teacher they wish employed, employ the same, if he or she can be had on reasonable terms; and in no case shall such trustees employ any teacher, whom a majority of the inhabitants attached to any school have decided they do not wish employed;

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and when at any time after the commencement of any school, if a majority of the inhabitants petition said trustees that they wish such teacher dismissed, such trustees shall dismiss him, but such teacher shall be entitled to pay for all services rendered.

Duty of school director.

SEC. 108. The director of each school shall preside at all meetings of the inhabitants connected therewith, and record their proceedings; he shall also act as the organ of communication between the inhabitants and the township trustees.

Same.

SEC. 109. He shall take charge of the school house, and property belonging thereto, and preserve the same, and shall make all temporary repairs to the school house, furniture and fixtures, and provide the necessary fuel for the school, and report the cost thereof to the trustees for payment.

Same.

SEC. 110. He shall visit and inspect the school from time to time, exclude any refractory pupil therefrom, with the consent and approbation of the township trustees, and under their direction provide suitable teachers therefor.

Length of time pupil may be excluded from school.

SEC. 111. The exclusion of any pupil from the school for disorderly conduct, shall not extend beyond the current term, and may be, in the discretion of the trustees, for a shorter period.

OF THE STATE SUPERINTENDENT.

Election of State Superintendent.

SEC. 112. There shall be elected by the qualified voters of the State, at the general election, a State Superintendent of Public Instruction, who shall hold his office for two years.

His expenses.

SEC. 113. He shall receive for traveling, stationery, and other expenses, a sum not exceeding five hundred dollars per annum.

Commencement of term and oath of office.

SEC. 114. He shall enter upon his official duties on the second Monday in February succeding his election, and shall take and subscribe an oath of office, which shall be filed in the office of Secretary of State.

His books, papers and office where kept and by whom furnished.

SEC. 115. The books and papers of his department shall be kept at the seat of government, where a suitable office shall be furnished by the State, at which he shall give attendance when not absent on public business, and if the business of the office require it, he may employ a clerk, not more than six months in each year, at a salary of two dollars a day.

Allowed clerk six months in year.

Report of Superintendent.

SEC. 116. He shall present an annual report, containing a brief exhibit of his labors, the result of his experience and observation, noticing any imperfection



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in the operation of the system, and suggest the appropriate correction. He shall also prepare and append to said report all statistical tables, the materials of which have been transmitted to his department by the proper officers, and shall cause ten thousand copies to be printed and distributed to the several counties of the State.

To append to report all statistical tables.

To visit each county annually, and duty while there.

SEC. 117. He shall spend annually, on an average, at least one day in each county, attending teachers' institutes, conferring with township trustees, counseling teachers, and delivering lectures on topics calculated to subserve the interests of popular education.

Ex-officio president of board of education.

SEC. 118. He shall be *ex-officio* President of the State Board of Education, preside at all meetings thereof, propose such measures for consideration and adoption as in his judgment may best subserve the interests committed to said board, and increase the efficiency of their individual labors, and submit for their approval a list of text books for schools, and a catalogue of suitable works for school libraries.

To superintend purchase of township libraries.

SEC. 119. He shall superintend the purchase of township libraries, under such regulations as the State Board of Education may adopt, and report to said board his proceedings in relation thereto.

To determine appeals; &c.

SEC. 120. He shall receive and promptly determine appeals from township trustees, exercise such supervision over the educational funds as may be necessary to ascertain their safety and secure their preservation, and cause to be instituted, in the name of the State of Indiana, for the use of the proper fund, all suits necessary for the recovery of any portion of said funds.

May require information of certain officers.

SEC. 121. He may require of the county auditors, treasurers, township trustees, clerks, and treasurers, copies of all reports required to be made by them, and all such other information in relation to the duties of their respective offices, and the condition of the funds and property of the common schools, and the condition and management of such schools, as he may deem important.

To prepare suitable forms.

SEC. 122. He shall prepare and transmit to the proper officers, suitable forms and regulations for making all reports and conducting all necessary proceedings under this act, and all necessary instructions for the better organization and government of common schools.

Cause copies of acts of the General Assembly in relation to common schools, to be distributed.

SEC. 123. He shall cause as many copies of the acts of the General Assembly, in relation to the common schools, or the school funds, with necessary forms, instructions and regulations, to be from time to time printed and distributed among the school townships, as he shall deem the public good requires.

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Annual report

SEC. 124. The annual report of the superintendent shall be made to the General Assembly when that body is in session, otherwise to the Governor, who shall cause the same to be published, and communicate a copy thereof to the next General Assembly.

To license teachers at pleasure.

SEC. 125. He may license teachers of the common schools at his pleasure.

What he shall supply each common school library with.

SEC. 126. He shall supply each common school library with the legislative documentary journals and the acts of each session of the General Assembly, and also the annual reports of the State Board of Agriculture, and his own annual reports.

Treasurer to take his receipt.

SEC. 127. The treasurer shall take his receipt for such books and documents, which receipt shall be evidence of the proper disposal of such books and documents.

Report, what to contain.

SEC. 128. With the report of his labors and observations, the superintendent shall present:

A statement of the condition and amount of all funds and property appropriated to purposes of education;

A statement of the number of common schools in this State, the number of scholars in attendance, their ages, sex, and the branches taught;

A statement of the number of private or select schools in the State, so far as the same can be ascertained, the number of scholars, their age, sex, and branches taught;

Estimates and accounts of the expenditures of the public school funds;

Plans for the management and improvement of the common school funds and for the better organization of common schools.

### OF THE TOWNSHIP LIBRARIES.

School tax for libraries.

SEC. 129. There shall be assessed and collected, as the State and county revenues are assessed and collected, on the list of property taxable for State purposes, the sum of one quarter of a mill on each one dollar. There shall also be paid, by every person liable to pay a poll tax for State purposes, the sum of twenty-five cents; *Provided*, that said tax shall continue for one year only.

Proviso.

How applied.

SEC. 130. The said taxes shall be applied exclusively to the purchase of township school libraries, under the direction of the State Board of Education, but no sectarian work shall be admitted into such libraries.

Taxes to be paid to treasurer.

SEC. 131. The amount of said taxes, when collected, shall be paid by the county treasurers to the Treasurer of

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State, at the time of making their annual settlement, and shall be paid out by that officer upon the warrant of the Auditor of State.

Distribution of library.

SEC. 132. The State Board of Education shall, when such libraries have been received, cause the same to be distributed to the several townships in the State, under the direction of the State Superintendent, who shall apportion the same according to the population of the townships: *Provided, however*, that existing inequalities in township libraries shall first be corrected.

Who to preserve libraries.

SEC. 133. Such libraries shall be in charge of the boards of township trustees, shall be deemed the property of the township, and shall not be subject to sale or alienation for any cause whatever.

Same subject.

SEC. 134. Such trustees shall be accountable for the preservation of said libraries, may prescribe the time of taking and the period of retaining books, assess and recover damages done to them by persons entitled to their use, and adopt regulations necessary for their preservation and usefulness.

Where libraries to be kept.

SEC. 135. The trustees may deposit the library at some central point, or at one or more eligible places in the township, for the convenience of scholars and families, and they may appoint for that purpose one or more librarians, to have the care and superintendence thereof.

Who entitled to use library.

SEC. 136. Every family in the township shall be entitled to the use of two volumes at a time from said library, although no member of such family attend school.

Library to be open.

SEC. 137. The library shall be open to all persons entitled to its privileges, throughout the year, without regard to school sessions.

MISCELLANEOUS PROVISIONS.

Books, papers, &c., subject to inspection.

SEC. 138. The books, papers, and accounts of any township trustee, clerk, or treasurer, shall at all times be subject to the inspection of the county auditor, and of the Board of Commissioners of the proper county.

County commissioners may summon before them trustees, &c.

SEC. 139. For the purpose of such inspection, said board of county commissioners and auditor may, by subpœna, summon before them any such trustees, clerk, or treasurer, and require the production of such books, three days' notice of the time to appear and produce such books being given.

Books may be corrected.

SEC. 140. If such books have been imperfectly kept, said board of commissioners may correct them; and if fraud appear, shall remove the person guilty thereof.

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Service of process.

SEC. 141. Process in suits against a school township shall be by summons executed by leaving a copy thereof with the clerk of such township ten days before the return day thereof.

Suits, how brought.

SEC. 142. Suits brought on behalf of a school township, shall be brought in the name of the State of Indiana, for the use of such township.

Appeal.

SEC. 143. An appeal shall lie from the decision of the township trustees to the State Superintendent, whose decision shall be final.

When no cost to be recovered.

SEC. 144. Any person who shall sue for or on account of any decision, act, refusal, or neglect of duty of the township trustees, for which he might have had an appeal, according to the provisions of the preceding section, shall not recover costs.

Character and qualification of teachers

SEC. 145. No teacher shall be employed unless he be of good moral character, nor until he shall have procured a certificate of qualification, as provided in this act.

County commissioners to appoint school examiners &c.

SEC. 146. The board of county commissioners of each county of this State, shall appoint at least one, and not more than three school examiners, whose term of office shall expire on the first Monday in March of each year, and the clerk of said board shall, immediately upon their appointment, report their names and post office address to the State Superintendent.

Duty of examiners.

SEC. 147. The said school examiners, or either of them, shall examine all applicants for license as teachers of the common schools, and, if found qualified, shall license them as such for any time not exceeding two years, at the discretion of the examiner, and shall report their proceedings annually to the State Superintendent.

License, what to specify

SEC. 148. All licenses shall specify the branches which the applicant is qualified to teach, and the license shall be without charge, but the school examiner shall be entitled to a fee of fifty cents, in advance, from every person applying for examination.

Teacher to possess knowledge

SEC. 149. No person shall be licensed as a common school teacher unless he or she may possess a knowledge of orthography, reading, writing, arithmetic, geography, and English Grammar.

School taught in the English language. Proviso.

SEC. 150. The common school shall be taught in the English language: *Provided, however*, That schools may teach other languages in addition to the English, as a branch of education.

County commissioners to conform to certain boundaries.

SEC. 151. The county commissioners of each county are required to conform to the boundaries of their civil townships, to those of congressional townships, as far as it is practicable to do so.

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Length of school term of 3 months, 65 days, &c.

SEC. 152. The length of a school term of three months shall be sixty-five days, and the number of hours in each day, during which the pupils are to be confined in school, shall be six hours.

When township trustees may sell land on which school house stood.

SEC. 153. The township trustees may, whenever a school house shall have been removed to a different location, or a new one erected for the school in a different place, if the land, whereon the same is situated, belongs, unconditionally, to the school fund, sell the same, when, in their opinion, it is advantageous to the township so to do, for the highest price that can be obtained therefor, and upon the payment of the purchase-money to the township treasurer, they shall execute to the purchaser a deed of conveyance, which shall be sufficient to vest in such purchaser all the title of such township thereto.

Purchase money to be returned to purchaser.

SEC. 154. When any officer authorized to sell school lands, shall have sold any lands without a title thereto, such officer, or his successor in office, may convey such other lands of equal value, as may be agreed upon between such officer and the purchaser, his heir, or assigns, or failing to make such agreement, the purchase-money, with interest, shall be repaid to such purchaser, his heirs, executors, administrators, or assigns; but no such purchase-money shall be thus repaid until the proper prosecuting or district attorney shall have investigated the facts of the case, and certified to the correctness of the claim.

County auditors to open an account book with each congressional township of their county.

SEC. 155. The county auditors of the several counties of this State, shall immediately upon the taking effect of this act, open an account upon their books with each of the congressional townships of their respective counties, whose funds are managed by them, and transfer to such account from the common school fund account, the principal of the congressional township fund as it existed before its consolidation with the common school fund, and shall thereafter keep a separate account of the principal and interest of the congressional township fund of each township.

Duty of county auditor in regard to loan of school funds.

SEC. 156. Where the whole of the school funds of a county have been loaned, the auditor will apportion to each congressional township a sufficient number of mortgages to cover the principal of its congressional township fund, and where a part of the school funds only are loaned, the auditor will so apply a proportional amount, and the cash on hand, when loaned, shall be for the benefit of the congressional townships respectively, to the amount of the entire principal of their congressional fund, and in all loans made after the taking effect of this

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act, the mortgage shall specify the particular fund borrowed.

STATE BOARD OF EDUCATION.

Who to constitute State board of education.

SEC. 157. The State Board of education shall consist of the State Superintendent of Public Instruction, and the Governor, Treasurer, Auditor of State, and Secretary of State and Attorney General, who shall meet annually at Indianapolis, on the ——— day of ———, for the purpose of more effectually promoting the interests of education by mutual conference, interchange of views, and experience of the practical operations of the system, the introduction of uniform school books, and the discussion and determination of such questions as may arise in the practical administration of the system.

Emergency.

SEC. 158. Inasmuch as certain provisions of the existing law have been held void by a decision of the Supreme Court, in consequence of which there is now no valid law authorizing distribution of a portion of the funds devoted to the support of common schools; and inasmuch as great inconvenience will result throughout the State on account thereof, before this act can be published and circulated in the several counties by the usual method, it is declared that an emergency exists requiring that this act shall take effect immediately; wherefore it shall take effect from and after it passage. And the Secretary of State shall immediately forward a certified copy of it to the Superintendent of Public Instruction, and to each County Auditor, and shall also, without delay, cause the same to be published in the State Journal, State Sentinel, and Indiana Republican.

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## CHAPTER LXXXVII.

AN ACT to authorize the establishment of Free Public Schools in the Incorporated Cities and Towns of the State of Indiana.

[APPROVED MARCH 5, 1855.]

Incorporated cities and towns empowered to establish and support Public Schools.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several incorporated cities and towns of this State be, and they are hereby, authorized and empowered to establish and support Public Schools within their respective corporate limits, and by an ordinance of such corporation, to levy and collect such taxes as may be necessary from time to time for the support thereof.

By ordinance to levy and collect tax for support of such schools.

May recognize any school, seminary, or other institution erected by private enterprise as part of their system.

SEC. 2. It shall be lawful for any such city or town to recognize any school, seminary, or other institution of learning, which has been or may be erected by private enterprise, as a part of their system, and to make such appropriation of funds to such school, seminary, or institution of learning, and upon such terms and conditions as may be deemed proper.

How this is to be construed.

SEC. 3. Nothing contained in this act shall be construed to authorize any city or town, by any system adopted under this act, to supersede the common schools established under the authority of this State and supported by the public funds.

County treasurer to collect and pay tax over to city treasurer.

SEC. 4. When any tax is required to be levied as provided in this act, the county auditor, upon being required so to do, by the proper authorities of any city or town, shall enter the said tax upon his duplicate, and the treasurer shall proceed to collect the same, upon the list of property subject to taxation for State and county purposes, and shall pay over the same when collected to the treasurer of such city or town, or other officer properly authorized to receive the same.

Emergency.

SEC. 5. Inasmuch as existing laws are not sufficient to confer the powers herein given, and it is desirable that such powers should exist immediately, it is declared that an emergency exists for the immediate taking effect of this act; wherefore, it shall take effect from its passage.

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## CHAPTER LXXXVIII.

AN ACT to provide for the appropriation of certain school funds raised for specific purposes when these purposes have been abandoned.

[APPROVED MARCH 5, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any tax has been assessed and collected, by virtue of or in pursuance of any valid law, in any school district, for the purpose of paying interest on a contemplated loan of money, or to make a payment on a contemplated purchase of property by such district, if such purchase or loan has been abandoned and not made, it shall be lawful for the trustees having charge of such money to appropriate the same, or any part thereof, to the erection or repair of school houses in said district, or such money may be paid into the general school fund; and in such case, the persons who paid such taxes shall be entitled to a credit on account of the school tax assessed against him or her, in such district or township, to an amount equal to the sum by him or her paid for the purpose aforesaid.

How tax is to be applied when the purpose is abandoned for which it was collected.

SEC. 2. Inasmuch as it is important that an appropriation of such funds should be made before the acts of this session will be published in the several counties of this State, an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

Emergency.

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## CHAPTER LXXXIX.

AN ACT to authorize the Boards of Trustees of High Schools, Academies, Colleges, or Universities, to assume a common name, consolidate their property, to sue and be sued, contract and be contracted with, and to transact their business under such common name.

[APPROVED FEBRUARY 7, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any boards of trustees, or any member thereof, heretofore organized under any general or special law of this State, for the purpose of establishing a high school, academy, college,

How highschools, academies, &c., may adopt common name.

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or university, may desire to assume a common name, it shall and may be lawful for such board or boards, by resolution, to be entered upon its or their respective record or records, to adopt such common name as shall be agreed upon.

Board of trustees authorized to consolidate their stock, &c., in one common stock.

SEC. 2. That said board of trustees shall have power and are hereby authorized to merge and consolidate their stock, or other means, into one common stock, whether the same shall consist of real estate, money, moneys, bonds, bills, notes, mortgages, or other evidences of property or debts, upon such terms as may be mutually agreed upon.

Trustees to record resolutions changing their name in the office of clerk of circuit court.

SEC. 3. It shall be the duty of such boards of trustees to cause a copy of the resolutions changing their name and consolidating their property, as above prescribed, to be recorded in the office of the Clerk of the Circuit Court of the county in which such high school, academy, college, or university may be located, and a duplicate thereof with the Secretary of State.

How change of name, &c., shall be construed.

SEC. 4. The change of name and the consolidation of property, as herein provided, shall not be so construed as to deprive such board or boards of trustees of any of the powers and franchises granted in the original act or acts of incorporation, or amendments thereto, nor shall any thing herein contained be so construed as to prevent any such board or boards of trustees so changing their name or names, for all the rights and liabilities which may have accrued previous to changing their name and consolidating their property.

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## CHAPTER XC.

AN ACT for the incorporation of High Schools, Academies, Colleges, Universities, Theological Institutions, and Missionary Boards.

[APPROVED FEBRUARY 28, 1855.]

Persons designed to establish high schools, academy, college, &c., how to proceed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any number of persons desiring to establish a high school, academy, college, university, theological institute, or missionary board, shall first make a statement, verified by oath, of at least five of the same, declaring the name and purpose of the institution, the manner in which religious bodies or benevolent associations having the control or patronage

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of the same, shall be connected with and exercise such control over such institution, the mode and purposed amount of endowment, the amount then donated or subscribed, and shall file the same in the office of the Clerk of the Circuit Court of the county in which such institution is proposed to be located, and a duplicate thereof with the Secretary of State, and the relation of such corporation to the religious society having control or patronage of it, shall be governed by the rules prescribed in such statement; but they may be altered at any time by agreement between such corporation and such society: *Provided*, that no such association shall hold more than forty thousand dollars in real estate, nor shall the capital stock of any such association exceed one hundred thousand dollars. Proviso.

SEC. 2. When the statement has been filed as aforesaid, the persons subscribing the same, and their successors, shall be a body politic and corporate, and shall have power to hold and convey real and personal property, for the purposes of their association and for endowments. To be body politic and corporate.

SEC. 3. Donations and contributions may be divided into and represented by shares of twenty, fifty, or one hundred dollars each, as may be agreed between the persons forming such association, and specified in the certificate required by the first section of this act, and one share shall constitute the person contributing the same a member of such association; and at all meetings thereof every member shall be entitled to one vote for each share held or represented by him; but no member shall have more than seventy-five votes, unless provisions be made therefor in the by-laws. Proxies shall always be given in writing. Member entitled to vote for each share held.

SEC. 4. Such corporation shall, within thirty days after filing the statement required in section one, elect a treasurer, and at least six trustees thereof, for the term of three years. Trustees so elected shall, as nearly as practicable, be divided by lot into classes—those drawing the first class shall be trustees one year; those of the second class, two years; and those of the third class, three years, or until their successors are chosen and qualified. Corporation to elect treasurer and at least six trustees. How trustees are to be divided.

SEC. 5. The treasurer shall give an official bond, with surety, payable to the State of Indiana, for the use of such institution, in such sum as the board shall approve, and they shall cause an authenticated copy thereof to be filed with the Clerk of the Circuit Court in the proper county. Treasurer to give bond, &c.

SEC. 6. The trustees thus chosen shall elect a presi- Duty of trustees.

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dent of the institution for a term not exceeding six years, who, when elected, with such trustees, shall constitute a board for the government thereof. Such board shall in all cases choose the faculty or other teachers of the institution.

May establish law, medical, and normal departments, and confer degrees therein.

SEC. 7. Colleges and universities incorporated under this act, shall have power to establish law, medical, normal, agricultural, and military departments, and confer degrees therein, and may also confer other academical degrees appropriate to such institution.

How to proceed to change grade and character of institute to any other provided for in this act.

SEC. 8. A majority vote given at any meeting, called by a notice specifying the time, place, and object thereof, and published for three weeks successively in the newspaper of the county having the greatest circulation, in which said institution is situated. If there be no paper in said county it shall be published in some paper printed in the State nearest thereto; may change the grade and character of such institution to any other provided for in this act; but a certificate of such change, verified by the oath of at least five of the stockholders, shall in like manner, with the original statement, be filed with the clerk of the Circuit Court of the proper county and the Secretary of State.

Emergency.

SEC. 9. As an informality exists in regard to the amendment of the High School law, passed in 1853, rendering corporations formed under it of doubtful legality, it is therefore deemed that an emergency exists and therefore this law shall be in force from and after its passage and publication in the Indiana State Sentinel and Journal.

How any high school, college, or university heretofore incorporated by special or general law of Indiana may accept the provisions of this act.

SEC. 10. Any High School, College, or University heretofore incorporated by a special or general law of Indiana, may, by a majority vote of two-thirds of its Board of Trustees, surrender its charter and come under the provisions of this act: *Provided*, A statement of the time and manner of such change be made out and filed as required in the first section of this act; but the provision requiring the division of the endowment fund into shares of stock shall not apply to such institutions.

What repealed.

SEC. 11. That an act, entitled "An act for the incorporation of high schools, academies, colleges, universities, theological institutions, and missionary boards," approved May 13th, 1852, and also, an act, entitled "An act to amend the first, second, and third sections of an act, entitled 'An act for the incorporation of high schools, academies, theological institutions, and missionary boards, approved May 13th, 1852,'" approved February 22d, 1853, be, and the same are hereby repealed,

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eserving all rights of action for and against said asso-iations formed under said acts, or either of them, and ll pending suits growing out of any of said acts.

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## CHAPTER XCI.

N ACT to provide for the leasing of County Seminaries, where they have been erected upon lands conveyed upon a condition that such lands, and the buildings, should be used for Seminary purposes only, or for Seminary purposes and town or public meetings.

[APPROVED MARCH 3, 1855.]

County Commissioners to lease seminary building with premises for educational purposes (upon such terms, and for such times, as to them seem proper) in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases where lands ave been conveyed upon which to erect county semina-ies, with a condition in the conveyance that such lands nd the buildings thereon erected should, for all time ereafter, be used for seminary purposes and none other, r for seminary purposes with the privilege of holding own or public meetings therein, that the Board of Com-issioners of the proper county may lease such premises, ith the seminary buildings, for seminary or educational urposes upon such terms, and for such times, as to them hall seem proper, but the county shall not be liable for ny damages to the lessee by reason of an eviction by he original grantor of the premises.

How rent accruing from leasing seminary ground and building shall be applied.

SEC. 2. The rent accruing from the leasing of such eminary grounds and buildings, shall be applied first o the payment of all debts due on account of the pur-hase-money of the premises; secondly, to pay all other ist debts against the seminary fund, and the residue hall be paid over to the school fund in the manner now equired by law in cases of the sale of county semina-ies.

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# CHAPTER XCII.

AN ACT to authorize the Commissioners of the Sinking Fund to adjust the unsettle account between the State of Indiana and the Merchants' Bank, in the city of Ne York, and to pay five thousand seven hundred and sixteen dollars and ninety cent due, with interest.

[APPROVED MARCH 1, 1855.]

Preamble.

WHEREAS, It has been shown to this General Assembly that the Merchants' Bank, in the city of New York (which up to the period when the State suspended the payment of interest on her public debt was the sole agent of the State for the payment of her interest, as well upon the general improvement loans as the bank loan,) paid over on the 9th day of November, 1843, to the then agent of the State, an apparent balance standing to the credit of the "internal improvement interest account" of five thousand seven hundred and sixteen dollars and ninety cents, which apparent balance it is now evident grew out of the fact that said bank had by mistake charged to the "Bank fund interest account" that amount when it should have been charged to the "Internal improvement interest account."

AND WHEREAS, Subsequently in a settlement between said bank and the commissioners of the sinking fund, who have charge of the payment of interest on the "State Bank loan," said erroneous charge to the bank fund interest account was detected, and the payment or allowance thereof by said commissioners very properly refused; thus leaving said bank in advance to the State said sum of $5,716 90, which had been so erroneously paid to the Agent of State under the impression that it was justly owing, and which, in justice ought to be repaid to said bank with the interest thereon: Therefore,

Commissioners of Sinking Fund authorized and directed, out of the Surplus Revenue Fund now in their hands for internal improvement purposes, to pay Merchants' Bank in city of New York the sum of $5,716 90, with interest from the 9th day of November, 1843, at

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Board of Commissioners of the Sinking Fund be, and they are hereby, authorized and directed, out of the surplus revenue fund now in their hands for internal improvement purposes, to pay to said Merchants' Bank, in the city of New York, the sum of five thousand seven hundred and sixteen dollars and ninety cents, with interest thereon from the 9th day of November, 1843, at the rate of six per centum per annum, said bank, at the time of such payment, de-

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livering up all internal improvement *coupons* in their possession belonging to the State, and which it is understood they hold, to the amount of eleven thousand three hundred and twenty-five dollars. the rate of 6 per centum per annum, &c.

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## CHAPTER XCIII.

AN ACT to provide a site, system of government, and plans for the erection of a State House of Refuge, for the correction and reformation of juvenile offenders.

[APPROVED MARCH 3, 1855.]

WHEREAS, The Constitution of the State of Indiana requires that the General Assembly shall provide houses of refuge, for the correction and reformation of juvenile offenders, and whereas, common sense and common humanity demand that some steps should be taken at once within this State to separate the youthful convict from the veteran and hardened criminal; therefore, Preamble.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Governor, Treasurer of State, and Superintendent of Public Instruction, be and the same are hereby authorized and directed to select and purchase for the State of Indiana, by general warranty deed, with good title, a lot of ground, containing not less than fifty nor more than one hundred acres, which shall be an eligible site for a House of Refuge, for the employment, instruction, correction, and reformation of juvenile offenders; such ground to be not less than three miles distant from any town or city, and not to exceed in price forty dollars per acre, regard being had in the selection thereof to the center of population, cheapness of living, and facility of access. Governor, treasurer, and Superintendent of Public Instruction authorized to purchase ground, &c.

SEC. 2. The said officers of State may also take into consideration any proposed donation of land, and any proposed donation of money or materials, towards the erection of such buildings, from any county or from the citizens of any county, but shall not be wholly governed by such proposed donations, but shall select that point which will combine economy to the State with the several requisites mentioned in the preceding section; and should said officers of State accept such donations, they shall proceed to secure the same to the State in the manner that may seem most advisable. Officers to take into consideration donations of land, &c.

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Duty of Governor, Treasurer, and Supt. Public Instruction.

SEC. 3. And the Governor and other officers of State aforesaid, are hereby directed to procure plans, specifications, and estimates, for the building or buildings necessary for such House of Refuge, such estimates to be for buildings not to exceed in cost thirty-five thousand dollars, and also to prepare and mature a system for the management and government of such House of Refuge, and to ascertain what laws will be necessary to put the same into successful operation.

Object to be carried out in the system of management.

SEC. 4. The system of management and laws to be prepared as in the foregoing section directed, shall contemplate the making such House of Refuge not simply a place of correction, but a reform school, where the young convict, separated from vicious associates, may, by careful physical, intellectual, and moral training, be reformed and restored to the community, with purposes and character fitting him for a good citizen, an honorable, and honest man.

Amount to be appropriated, and for what purpose.

SEC. 5. For the purpose of carrying into effect the provisions of this act, a sum not exceeding four thousand dollars is hereby appropriated for the purchase of said ground, and a sum not exceeding two hundred dollars is hereby appropriated for the procuring such plans, specifications, and estimates, to be paid by the Treasurer of State upon warrants of the Auditor, under and at the direction of the Governor, Treasurer, and Superintendent of Public Instruction.

Governor to report to next Legislature.

SEC. 6. And the Governor is requested to communicate to the General Assembly, at the commencement of its next session, the action of the said officers of State, under and by virtue of this act, with the plans, specifications, estimates, system of management, and draft of enactments to be prepared as in sections fourth and fifth of this act set out.

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## CHAPTER XCIV.

**AN ACT authorising the State of Indiana to relinquish her interest in the real estate herein set forth.**

[APPROVED MARCH 3, 1855.]

Preamble.

WHEREAS, On the 8th day of January, A. D., 1845, William English, a native of England, was married in Lawrenceburgh, Indiana, to Sarah H. Adams, a

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native of Dearborn county, Indiana, who was at the time of such marriage the owner in fee simple of the west half of in-lot 37, in the addition to said town of Lawrenceburgh, called New Lawrenceburgh, except a strip of ground six feet wide on the south side of said half lot, which half lot as aforesaid, the said Sarah had acquired by a deed of gift from her father.

And whereas, At the time of such marriage the said Sarah had a daughter by the name of Adeline, which after said marriage was called Adeline B. English, and now is known and called by that name.

And whereas, On the 24th day of September, A. D. 1853, the said Sarah departed this life without any children by the said William, and without any other legal heirs than the said Adeline and the said William.

And whereas, On the twentieth day of July, A. D. 1854, the said William English departed this life intestate, leaving no kindred or heirs residing within the United States, whereby the interest which he inherited from his said wife in said half lot escheated to and became vested in the State of Indiana. Therefore,

Relinquishment of interest from State to Adeline B. English.

Section 1. *Be it enacted by the General Assembly of the State of Indiana*, That all the right and interest which the said State of Indiana acquired by escheat from the aforesaid William English in and to the aforesaid half lot, thirty-seven, be, and the same is hereby, granted to the said Adeline B. English, and to her heirs and assigns for ever; and the said State of Indiana does hereby release all the right and interest which she now has unto the said Adeline B. English, her heirs and assigns for ever; and she is invested with the same as fully as if she had been the child and legal heir of the said William English at the time of his death.

When to take effect.

Sec. 2. That this act be in force from and after its passage.



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## CHAPTER XCV.

AN ACT to provide for the settlement of claims of the Lessee of the State Prison.

[APPROVED MARCH 3, 1855.]

Governor, Auditor, and Treasurer authorized to settle with Samuel H. Patterson.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Governor, Auditor, and Treasurer of State be, and the same are hereby, authorized and required to settle with Samuel H. Patterson, the lessee of the Penitentiary, for any claim or claims which he may have against the State, growing out of advances made or work done by him for or on account of the Penitentiary or the convicts therein.

How the amount allowed to be paid.

SEC. 2. The amount allowed by them shall be paid by the Treasurer of State out of any moneys in his hands not otherwise appropriated.

Emergency.

SEC. 3. Inasmuch as it is important that said settlement should be made immediately, it is hereby declared that an emergency exists for the taking effect of this act, and the same shall be in force from and after its passage.

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## CHAPTER XCVI.

AN ACT to authorize the Governor to contract for the completion of the Cells and Cell House at the State Prison, and appropriating a sum of money for the same.

[APPROVED MARCH 3, 1855.]

Governor instructed to contract immediately with some person to finish the new cells and cell house in process of erection at the State Prison. Amount appropriated.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Governor be and he is hereby instructed to contract immediately with some proper person to finish the new cells and cell house in process of erection at the State Prison, and that an amount not to exceed eight thousand dollars be and the same is hereby appropriated, to be paid out of any moneys in the State Treasury not otherwise appropriated, to meet the monthly estimates of the Superintendent of the State Prison Buildings touching said contract;

Proviso.

*Provided*, that the prices contracted for shall not exceed the price paid for similar work in the vicinity of the falls of the Ohio river.

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# CHAPTER XCVII.

AN ACT to provide for the election of officers for the State Prison, and for the appraisement of the property at said prison.

[APPROVED MARCH 3, 1855.]

Three directors of the State Prison to be elected by the present General Assembly, to take oath or affirmation to faithfully discharge duties required of them.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be elected, by joint ballot of the General Assembly of Indiana, at its present session, three Directors of the State Prison. They shall severally take an oath or affirmation faithfully to discharge the duties required of them. Of the three directors to be elected by this General Assembly, the first and second that are elected shall hold their offices for the term of four years from the first of March, 1855, the third for the term of two years from the first day of March aforesaid; and after the first election of directors, as the term of office of any director shall expire, his successor shall be elected for the term of four years; and in case a vacancy should happen in the office of director, from death, resignation, or otherwise, the Governor may appoint a person to fill such vacancy, and the person so appointed shall qualify in the manner hereinbefore provided, and shall hold his appointment until the Legislature shall elect a person to fill his place during the remainder of his term; and the directors shall hold their office until their successors are elected and qualified.

Compensation of Directors and Warden, and how to be paid.

SEC. 2. The directors shall receive, as a compensation for the services required of them, three dollars per day, each, for the time that they are actually employed, and the same mileage as members of the General Assembly, for going to and returning from the State Prison, to be paid out of the State Treasury on the order of the Auditor of State, and the Warden shall receive, as a compensation for the services required of him by law, such yearly salary, not exceeding fifteen hundred dollars, as to the directors may appear reasonable, to be paid quarterly out of the State Treasury, on the order of a majority of the directors.

Warden to be elected by Directors, and when term of office shall commence.

SEC. 3. The Warden shall be elected by the directors, and the term of his office shall commence at the date of the expiration of the term of the present lessee of the Penitentiary.

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Appraisers, how appointed, their duty and compensation

SEC. 4. The Governor shall appoint one person and the Lessee of the Penitentiary, S. H. Patterson, shall also appoint one person, which two persons shall be duly qualified, by oath or affirmation, well and truly to appraise and value the machines, tools, materials, and unfinished manufactured articles at the Penitentiary, and shall proceed on the fifteenth day of June, eighteen hundred and fifty-six, to appraise and value said property above described, and shall continue such appraisement, from day to day, until the whole is appraised and valued, and shall make out an award of such appraisement and valuation, which award shall be paid to S. H. Patterson, out of any money in the State Treasury not otherwise appropriated: *Provided*, that in case said two persons should fail to agree, they may choose an arbiter, whose decision shall be final; and for their services said appraisers shall receive three dollars per day, to be paid jointly and equally by the State and said S. H. Patterson: *Provided, further*, that the State shall not take any machinery, that will not be necessary in carrying on the business under the new organization.

Proviso.

Moral Instructor, by whom appointed, length of time to hold his office, duties and compensation.

SEC. 5. There shall be appointed, by the Governor, a Moral Instructor, for said prison, who shall hold his office for two years, and shall reside in the vicinity of the prison, whose duty it shall be to superintend the mental and moral improvement of the convicts, to preach to them once every Sabbath, to visit them when sick, to have charge of the library and superintend the distribution and use of the books, and adopt such other means for the reformation of the convicts as he and the Warden may deem expedient. That said Moral Instructor shall receive an annual compensation, for his services, of five hundred dollars, to be paid as the salaries of other officers of the institution are paid.

Repeal.

SEC. 6. That so much of an act in reference to the government of the Indiana State Prison as provides for a Visitor, and the payment of one hundred dollars for his services, be and the same is hereby repealed.

Emergency.

SEC. 7. It is hereby declared that an emergency exists for the taking effect of this act, and that it shall be in force from and after its passage.

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# CHAPTER XCVIII.

AN ACT to provide for the government and discipline of the State Prison.

[APPROVED MARCH 3, 1855.]

Length of time Warden to hold his office, and other regulations in regard to said officer.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Warden of the State Prison shall hold his office during the pleasure of the directors, but not longer than four years from and after his appointment. He shall take an oath or affirmation faithfully to discharge the duties of his office, and shall give bond to the State of Indiana in the sum of thirty thousand dollars, with at least two sufficient sureties, who shall be freeholders within this State, to be approved of by the directors, conditioned for the faithful performance of the several duties which may, from time to time, be required of him by law, which bond the said directors shall deposit in the office of the Treasurer of State.

Duty of Warden.

SEC. 2. The Warden shall attend to the purchasing of the raw materials to be manufactured in the State Prison, and shall also attend to the sale of articles manufactured therein; he shall also provide food and clothing for the convicts, and shall have in charge the whole operations of the establishment. All moneys drawn from the treasury for the use of the prison shall be drawn on the order of the Warden, countersigned by at least one of the directors, and under such rules and regulations as shall, from time to time, be prescribed by law, or the rules established by the directors.

Appointment of clerk, his duty and compensation.

SEC. 3. The Warden shall have power, by and with the advice of the directors to employ a clerk, whose duty it shall be to keep a fair, plain, and regular account with the State, crediting the same with all moneys drawn out of the treasury for the use of the prison, and with all moneys received for the sale of manufactured articles, and charging the same with all moneys paid out on account of the institution. He shall also keep a regular account of all purchases made by the Warden for the use of the institution, and of the amount of the sales of the manufactured and other articles; and also of the name, age, and general description of each prisoner, and the crime for which he has been convicted, and every circumstance connected with his or her case, as may be deemed of importance: *Provided*, That the salary allowed such clerk shall not exceed six hundred dollars per annum.

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Directors to inspect Warden's accounts, different apartments of prison &c., and report annually to the Governor.

SEC. 4. The directors shall, in turn, every two weeks, and in company, every two months, inspect the Warden's accounts, the different apartments of the prison, and the condition of the prisoners; and annually, in the month of December, submit to the Governor a report of the progress and condition of the prison, together with suggestions as to the improvements that may to them appear necessary, all of which shall be by him submitted to the General Assembly.

Warden and Directors to establish by-laws and submit the same to Governor, and he to submit them to the Legislature.

SEC. 5. The directors and Warden of the prison shall, from time to time, establish by-laws, rules, and regulations for the discipline and government thereof; and the Warden shall be held responsible for the observance and enforcement of such by-laws, rules, and regulations; and the directors shall annually submit such by-laws, rules, and regulations to the Governor to be by him submitted to the Legislature.

Warden to furnish convicts, who have served 6 months, certain articles of clothing and $5 in money.

SEC. 6. Every convict who has served six months, shall, when discharged, be furnished by the Warden with one suit of decent clothing, three shirts, and five dollars in money.

Articles of value belonging to convicts to be preserved by Warden and delivered by him to convict when discharged.

SEC. 7. Any article of value which such convict may have in his possession when delivered into the custody of the Warden, shall be carefully preserved by such Warden and delivered to such convict when discharged, or to any other person that such convict may direct at any time previous to such discharge.

Regulations for convicts

SEC. 8. All offenders imprisoned as aforesaid, shall, during the term of their confinement, be clothed at the expense of the State in garments of coarse materials, shall be fed on good, wholesome food, shall be furnished with suitable and comfortable lodgings, and shall, as far as may be consistent with their age, sex, health, and ability, be kept at hard labor. Said prisoners shall, at all times, be kept separate, with as little intercourse with each other as the nature of their employment and the apartments of the prison will permit. And one or more guards shall patrol said prison, at least twice in every hour during the night, and until the return of the hour of labor in the succeeding morning.

Auditor of State to keep a regular account with Warden of State Prison.

SEC. 9. The Auditor of State shall keep a regular account with the Warden of the State Prison, charging him with all moneys paid on account of the institution, and crediting him with all moneys paid into the treasury on the production of the treasurer's receipt for said payments. And it shall be the duty of the Auditor to make out an abstract of all such accounts up to the 15th day of December, annually, and report the same to the Gov-

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ernor before the first day of January, to be by him reported to the General Assembly at the next session.

Books of Warden and clerk to be open at all times for inspection by directors: abstracts certified under hand and seal of either of directors to be good evidence in case of suit.

SEC. 10. The books of the Warden and clerk shall be open at all times for the inspection of the directors of the prison; and abstracts of the books certified under the hand and seal of either of the said directors, shall be good evidence in a suit against the clerk or Warden, or his securities.

Vinous, fermented, or spirituous liquors strictly prohibited from being given, bartered, or sold to any convict, except prescribed by attending physician. Penalty for violating this section.

SEC. 11. No vinous, fermented, or spirituous liquors (except such as may be prescribed by attending physicians for any convict in ill health) shall be introduced, given, bartered, or sold to any of the convicts; any person so offending against the provisions of this act, shall forfeit and pay a sum not exceeding fifty dollars, to be recovered in an action of debt, at the suit of the Warden, before any Court of competent jurisdiction, to be applied to the use of the institution.

Directors to place in conspicuous situation laws of this State and by-laws of institution.

SEC. 12. It shall be the duty of the directors to cause to be placed in some conspicuous situation about the prison so much of the laws of this State, and of the by-laws of the institution, as relates to the intercourse between visitors to the prison and the prisoners.

Style of suits in behalf of institution.

SEC. 13. That in all suits or prosecutions in behalf of the institution, the style shall be, "A. B., Warden of the Indiana State Prison, against C. D."

Infirmary, and how convicts shall be removed to and from it.

SEC. 14. That one or more apartments of the State Prison shall be prepared as an Infirmary; and whenever any convict shall be considered by the attending physician so unwell as to require removal from work, he or she shall be placed in the Infirmary, there to remain until the physician shall report to the Warden that such convict is in a proper condition to be removed from said Infirmary; the Warden shall then order him or her back to their former labor.

Assistants.

SEC. 15. The Warden shall appoint as many assistants as are necessary, whose salaries shall be fixed by the directors.

Physician, by whom appointed, his duty, and his compensation.

SEC. 16. That the directors of said State Prison shall appoint a physician to said institution, who shall receive a compensation for his services not exceeding three hundred dollars per annum, at the discretion of the directors, to be paid quarterly out of any moneys in the treasury not otherwise appropriated, on the order of said directors. Said physician shall hold his office one year. He shall visit, or cause the same to be done by some other competent physician, the prison at least once every day before nine o'clock, A. M., to hear and examine into the complaints of illness by the prisoners, and excuse from labor such convicts as he may deem unable to la-

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bor, and visit and prescribe for all such convicts as often as their cases respectively may require, and perform or cause to be performed all necessary surgical operations, and the medicine prescribed or treatment directed by him shall be furnished or complied with at the expense of the institution.

Rules regulating Warden as to successor.

SEC. 17. That in every case in which a new Warden for the prison shall be appointed, the Warden whose term of office shall have expired, shall deliver over to his successor quiet and peacable possession of the prison buildings, with all the property of the State in his possession, together with the convicts; and it shall be the duty of such succeeding Warden to give to his predecessor a receipt for the property and convicts aforesaid. And such part of said property as may consist of raw materials and manufactured articles, shall be appraised and valued by the directors, or some other suitable persons to be appointed by said directors, and be received by the new Warden at such appraisement and valuation:

Proviso.

*Provided*, That if the directors shall appoint persons to appraise the property as hereinbefore provided, the persons so appointed, before entering on the discharge of said duties, shall take an oath or affirmation before some well and competent authority truly to appraise and value the property aforesaid, and the individuals so appointed shall receive the same compensation as the Board of Directors, per day, for the time necessarily employed in the discharge of said duty, which account shall be audited and paid in the same manner that other moneys are paid.

As regards injury in preventing or retaking escaped or escaping convicts, person inflicting injury not responsible, unless wantonly done.

SEC. 18. That if the Warden or guards employed in said prison, or any of them, should, in the attempt to prevent the escape of any convict, or in attempting to retake any convict who has escaped, or in attempting to suppress a mutiny, shall injure or take the life of such convict, such Warden or guard shall not be held responsible therefor, unless the same was done unnecessarily or wantonly.

Penalty for buying, bartering, or exchanging any goods belonging to the State with any convict without leave of Warden.

SEC. 19. That if any person shall buy from, barter, or exchange any goods of any description with any convict of said prison, the property of the State, unless leave of the Warden be first had, every such person shall forfeit and pay for every such offense a sum not less than five dollars, nor more than one hundred dollars, to be recovered in an action of debt at the suit and in the name of the Warden, before any justice of the peace having cognizance of the same.

Fines and sums collected paid into State treasury.

SEC. 20. All fines and sums collected shall be paid into the State treasury for the use of the State.

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SEC. 21. The Warden may order bodily punishment to be inflicted on the prisoners when in his opinion it is necessary. Warden may order bodily punishment on prisoners.

SEC. 22. That the act, entitled "An act for the regulation of the Penitentiary," approved May the twenty-seventh, eighteen hundred and fifty-two, be, and the same is hereby, repealed. Repealed.

SEC. 23. That this act shall take effect from and after the expiration of the term of the present lessee of the Penitentiary. When this act to take effect.

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## CHAPTER XCIX.

AN ACT relating to the State University, supplemental to and amendatory of the second section of an act entitled "An act providing for the government of the State University, the management of its funds, and for the disposition of the lands thereof," approved June 17, 1852, and for securing a more economical administration of its affairs, by lessening the number of its Board of Trustees, and limiting the expenses of managing its funds; and to extend the time of final payment for University Lands, and to exempt purchasers of such lands from forfeiture of the same, and to provide for the sale of forfeited lands.

[APPROVED MARCH 3, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section two of an act entitled "An act providing for the government of the State University, the management of its funds, and for the disposition of the lands thereof," approved June 17, 1852, which reads as follows, to wit: "Sec. 2. The present trustees, three of whom shall reside in the county of Monroe, and their successors, shall be a body politic, with the style of 'The Trustees of Indiana University;' in that name to sue and be sued; to elect one of their number president; to elect a treasurer, secretary, and such other officers as they may deem necessary; to prescribe the duties and fix the compensation of such officers; to fill all vacancies in such board; which appointment shall continue until the next meeting of the General Assembly, at which time the General Assembly shall fill all such vacancies; to possess all the real and personal property of such University for its benefit; to take and hold, in their corporate name, any real or personal property for the benefit of such institution; to expend the income of the University for its benefit; to declare vacant the seat of any trustee who shall absent Sec. 2 amended.

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himself from two successive meetings of the board, or be guilty of any gross immorality or breach of the by-laws of the institution; to elect a president, such professors, and other officers for such University as shall be necessary, and prescribe their duties and salaries; to prescribe the course of study and discipline, and price of tuition in such University; and to make all by-laws necessary to carry into effect the powers hereby conferred," be and the same is hereby amended to read as follows, to wit: The Board of Trustees of the State University shall be eight in number, of whom not more than one shall reside in the same county, excepting the county of Monroe, from which two may be selected; and they and their successors shall be a body politic, with the style of "The Trustees of Indiana University;" in that name to sue and be sued; to elect one of their number president; to elect a treasurer, secretary, and such other officers as they may deem necessary; to prescribe the duties and fix the compensation of such officers; to possess all the real and personal property of such University for its benefit; to take and hold, in their corporate name, any real or personal property for the benefit of such institution; to expend the income of the University for its benefit; to declare vacant the seat of any trustee who shall absent himself from two successive meetings of the board, or be guilty of any gross immorality or breach of the by-laws of the institution; to elect a president, such professors and other officers for such University as shall be necessary, and prescribe their duties and salaries; to prescribe the course of study and discipline and price of tuition in such University; and to make all by-laws necessary to carry into effect the powers hereby conferred.

How amended.

Who constitute Board of Trustees, &c.

SEC. 2. The following persons and their successors shall constitute said board: Joseph S. Jenckes, of Vigo county; Joel B. McFarland, of Tippecanoe county; George Evans, of Henry county; William M. French, of Clark county; Ransom W. Aiken, of Monroe county; Johnson McCullough, of Monroe county; James R. M. Bryant, of Warren county; John I. Morrison, of Washington county; three of whom shall serve for two years, two for three years, and three for four years.

First meeting of Trustees to be 2d day of April, 1855.

SEC. 3. The first meeting of said board shall be at the town of Bloomington, on Monday, the second day of April, 1855, when they shall determine by lot their several terms of service.

Vacancies occurring, Board how to be filled.

SEC. 4. Vacancies in said board, whether occasioned by death, resignation, removal from the State, expiration

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of terms of service, or otherwise, shall be filled by the State Board of Education.

Compensation of trustees.

SEC. 5. The Trustees of said University shall receive, when employed in the actual service of the University, the same pay as members of the General Assembly.

Contracts entered into heretofore legalized.

SEC. 6. All contracts heretofore entered into by the Trustees of the Indiana University for re-building the main University edifice be, and the same are hereby legalized.

Compensation of Auditor and Treasurer of State for management of fund.

SEC. 7. The Auditor of State and the Treasurer of State, for the management of the University Fund, shall be, jointly, entitled to receive five per centum upon the interest paid in on such fund; and it shall not be lawful for them, or either of them, to make any other charges against the same.

Time of final payment extended for three years.

SEC. 8. That the time for the final payments, to be made by the holders of original certificates for the purchase of lands reserved and granted to the State University of Indiana, in the case of all such certificates as have heretofore been issued and are now outstanding, be extended for the further term of three years from the time when the same may respectively fall due.

Holders of certificates who have forfeited land for non-payment of interest on certain conditions released, &c.

SEC. 9. Any and all holders of such certificates, as aforesaid, who have forfeited such lands by the non-payment of interest on the purchase-money, shall be exempted and released from such forfeiture by paying to the commissioner of such lands, on or before the first day of August in the year 1855, all interest due on the same, together with the interest upon the amount due at the time of such forfeiture up to the time of said payment; and upon such payment being made in the manner and within the time herein specified, the holder of such certificate shall have the same rights under it as if such forfeiture had never occurred.

Duty of commissioner in regard to forfeited lands, and his per centum.

SEC. 10. If any portion of said lands now forfeited shall not have been redeemed on the said first day of August next, as provided in the ninth section of this act, it shall be the duty of the commissioner of such reserved lands to sell the same for the best price he can obtain, not less than the original purchase price, allowing the purchaser a credit on the same as now provided by law. If any of such lands shall hereafter be forfeited, it shall be the duty of such commissioner, if the same is not redeemed within six months from the time of such forfeiture, to sell the same on the terms in this section above provided; for his services in effecting such sales, the commissioner shall be entitled to retain out of the first money received from the purchasers, five

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per cent. upon the amount of the purchase price of such lands.

Repeal. SEC. 11. All laws and parts of laws contravening the provisions of this act, are hereby repealed.

Emergency. SEC. 12. It is hereby declared that an emergency exists, by reason of the provisions of this act; therefore, it shall be in force from and after its passage.

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## CHAPTER C.

AN ACT providing for official notice of the time when the Statutes of the State are in force.

[APPROVED FEBRUARY 7, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the several clerks of Circuit Courts in this State, immediately on the receipt of the laws of any session, to transmit to the Governor a certificate stating the day when such laws were so received.

SEC. 2. So soon as certificates from all the counties have been received, the Governor shall issue and publish his proclamation, announcing the date at which the latest filing took place; of the facts contained in which proclamation all Courts shall take notice.

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## CHAPTER CI.

AN ACT supplemental to an act, entitled "An act to regulate the sale of the Swamp Lands donated by the United States to the State of Indiana, and to provide for the draining and reclaiming thereof, in accordance with the condition of said grant," approved May 29, 1852.

[APPROVED FEBRUARY 2, 1855.]

All money, warrants, &c., to be passed to credit of respective counties. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the Auditor of State to apportion and pass to the credit of the Swamp Land Fund of the several counties, respectively, in the State, all the money, warrants, and funds of any and every description now in the State treasury, or

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that may hereafter come into it, derived from the sale of swamp lands lying within said counties, donated by the United States to the State of Indiana, subject, however, to the restrictions and limitations contained in the 52d section of the act to which this a supplement, which reads in these words, to-wit: "The Auditor of State shall draw his order on the Treasurer of State requiring him to place to the credit of the State out of the first moneys received into the treasury for swamp lands, the amount paid out of the State Treasury for the selection of swamp lands, and all other expenses incurred by the State in the disposal thereof."

What fund named in section one shall consist of.

SEC. 2. That the funds named in section one of this act shall consist of all receipts for swamp lands sold prior to the sale of swamp lands by the Auditor and Treasurer of the different counties where said lands are situated, together with all receipts for swamp lands from and since said sales; and said money, warrants, or funds of any and every description, shall be subject to, and paid out upon, the orders of the Swamp Land Commissioner of the county from which said money, warrants, or funds were derived, so far as may be necessary for the purposes of draining and reclaiming said swamp lands; *Provided, however*, That nothing in this act shall be so construed as to divert said funds from the objects now contemplated by law, but the same shall be faithfully appropriated to the purposes intended by law.

Proviso.

SEC. 3. This act to be in force from and after its passage.

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## CHAPTER CII.

AN ACT to amend the 41st section of an act, entitled "An act to regulate the sale of the Swamp Lands donated by the United States to the State of Indiana, and to provide for the draining and reclaiming thereof, in accordance with the condition of said grant," approved May 29th, 1852, and for legalizing certain acts of Swamp Land Commissioners who failed to comply with the provisions of the above recited act.

[APPROVED FEBRUARY 27, 1855.]

Sec. 41 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the 41st section of an act, entitled "An act to regulate the sale of the Swamp Lands donated by the United States to the State of Indiana, and to provide for the draining and reclaiming thereof, in accordance with the condition of said grant,"

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approved May 29th, 1852, which section reads as follows, to-wit: "It shall be the duty of the County Treasurer of each county to prosecute in the name of the State of Indiana, any person or persons who shall commit a trespass on any of the Swamp lands by cutting down any tree or trees growing thereon, or removing therefrom any timber, stone, or other material to the injury thereof," be amended to read as follows: It shall be the duty of the County Treasurer to prosecute in the name of the State of Indiana any person or persons who shall commit a trespass on any of the swamp lands.

How amended.

Acts of Commissioners legalized in certain cases where said Commissioners have failed to qualify.

SEC. 2. In any case in which any Swamp Land Commissioner may have failed to qualify under the provisions of the 32d section of the act of the General Assembly to which this is amendatory, the acts of such Commissioner are hereby legalized so far as money has been drawn by or through his authority for the payment of any work done for the drainage of swamp lands in his county; and any contractor or contractors having performed work under the authority of such Commissioner, he or they shall procure the certificate of the Engineer having lain off the same, together with any other evidence, sustained by affidavit made before a competent officer to administer the same, which evidence, if satisfactory to the Auditor of State, he shall settle with and pay out of the proper fund to such contractor or contractors at the estimated price of the work made by such Engineer.

Emergency.

SEC. 3. Whereas at least one Swamp Land Commissioner has failed to qualify according to law, and thereby important improvements are suspended, and innocent individuals prevented from receiving their money for labor performed, it is declared that an emergency exists for the immediate taking effect of this act, and it therefore shall be in force from and after its publication in the Indiana Journal and State Sentinel.

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# CHAPTER CIII.

AN ACT to regulate the title of all those who purchased swamp lands of the United States, after the date of the donation and before the selection of the swamp lands by the State of Indiana.

[APPROVED MARCH 5, 1855.]

Governor to execute patent in certain cases where no title has been made to land purchased prior to eighth day of September, 1850.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for any person who may have purchased any lands from the United States, at a price exceeding one dollar and twenty-five cents per acre, between the twenty-eight day of September, 1850, and the period when such lands were selected by the State as swamp lands, and who have received no title therefor, to assign and transfer to the State of Indiana the certificate of purchase, which assignment shall be in such form as the Governor shall prescribe; and upon the transfer of such certificate a patent shall be executed by the Governor, and issued and countersigned by the Secretary of State, under the seal of the State, which deed shall convey all the right, title, and interest of the said State, to the grantee in fee simple.

An assignment of certificate to State of Indiana, said State shall be vested of all rights of original purchaser.

SEC. 2. On the assignment of such certificate to the State of Indiana, the said State shall be vested of all the right of the original purchaser, or his heirs or assigns, in and to the purchase money named therein, and shall enable the State of Indiana to demand and secure from the United States such moneys as purchaser, his heirs or assigns, might, before said assignment, been entitled to from the United States.

The patent shall revert in case of death of purchaser before issuing of said patent.

SEC. 3. In case the purchaser of said land is dead, or dies before the issuing of said patent, if he has devised the same his devisee shall be entitled to all the rights of the purchaser and entitled to the patent; if he dies intestate, his heirs shall be entitled to such patent; and in case such purchaser in his life time sold the land so purchased, his assignees shall be entitled to such patent.

Emergency.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act; therefore, this act shall take effect from and after its passage and publication in the Indiana State Sentinel and Journal.

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## CHAPTER CIV.

AN ACT to provide for the service of a summons of a witness by copy.

[APPROVED FEBRUARY 7, 1855.]

If a summons for witness cannot be served by reading on account of the temporary absence of witness, copy may be left at his place of residence.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That when a summons from any court of this State, for a witness, cannot be served by reading, on account of the temporary absence of such witness from his last usual place of residence within the jurisdiction of the officer having such process, or when such witness so conceals himself within such jurisdiction that such process cannot be read to him, the same may be served by leaving a copy thereof, certified to be a true one, by such officer at such residence; but in no case shall such service by copy be made when such officer has reasonable grounds to believe that such witness has removed his residence without such jurisdiction.

Attachment not to issue against witness until party applying make affidavit that he believes that witness has had knowledge of service by copy.

SEC. 2. In no case shall an attachment issue against a witness upon whom such service by copy only has been made, until the party applying therefor, or his attorney, shall make affidavit in the court from which it is sought to be issued, that he has reasonable grounds to believe, and does believe, that the witness against whom the summons issued has knowledge of the service thereof by copy in time to have obeyed its command.

Emergency.

SEC. 3. As there is no law in force in this State authorizing service of summons issued from any of the courts thereof for witnesses, by copy, it is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage; and the Secretary of State shall, immediately after the passage of this act, forward a certified copy thereof to each of the clerks of the several circuit courts of this State.

Duty of Secretary of State.

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# CHAPTER CV.

AN ACT to prohibit the manufacture and sale of spirituous and intoxicating liquors, except in the cases therein named, and to repeal all former acts inconsistent therewith, and for the suppression of Intemperance.

[APPROVED FEBRUARY 16, 1855.]

All persons prohibited from manufacturing or selling, directly or indirectly, spirituous or intoxicating liquor, except as hereinafter provided. What liquors are included in the term intoxicating liquors and are within the meaning of this act.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That no person shall manufacture, keep for sale, or sell, by himself or agent, directly or indirectly, any spirituous or intoxicating liquor, except as is hereinafter provided. Ale, Porter, Malt Beer, Lager Beer, Cider, all Wines and fermented liquor which will produce intoxication, and all mixed liquor, of which part is spirituous or intoxicating liquor, are included in the term *intoxicating liquor*, and are within the meaning of this act.

This act not to forbid making of cider from apples or wine from grapes, currants, or other fruits grown or gathered in this State by manufacturer, or sale thereof by him, &c.

SEC. 2. No provision of this act shall be construed to forbid the making of cider from apples, or wine from grapes, currants, or other fruit, grown and gathered in this State by the manufacturer, or the sale thereof by him; but such manufacturer, or other person on his behalf, shall not sell less than three gallons at any one sale, or to any one person; and all sold at any one sale shall be taken away at the same time. Any other manufacture or sale of cider or wine shall be deemed to be unlawful, except as herein provided.

Not to forbid sale by importer of foreign spirituous or intoxicating liquors imported under and in accordance with the laws of the United States. Proviso.

SEC. 3. No provision of this act shall be construed to forbid the sale by any importer thereof of any foreign spirituous or intoxicating liquor imported under the laws of the United States, and in accordance therewith: *Provided*, That such liquor, at the time of the sale, remains in, and is sold in the original casks or packages in which it was imported, and in the same quantities; but the Custom House certificates of importation, and proofs of marks on the casks or packages corresponding thereto, shall not be received as sufficient evidence that the liquors contained in said casks or packages are those actually imported therein. All other sales of spirituous or intoxicating liquor made by any importer as such, shall be deemed to be unlawful.

County Commissioners may give to persons applying in writing authority to manufacture and sell in any quantity spirituous or in-

SEC. 4. The County Commissioners of each county may give to any person, who shall apply in writing therefor, authority to manufacture spirituous and intoxicating liquor at such places within the county as the Commissioners may designate, and to sell the same at



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toxicating liquors to duly authorized agents at such place only as Commissioners may designate.

such places only, in any quantity, to the duly authorized agents of the several counties of this State. Such authority shall not continue more than one year from the date thereof, and may, at any time be revoked by the Commissioners. But all persons engaged in the manufacture of such liquors at the time of the passage of this act, shall be entitled, as a matter of right, to such authority, from the County Commissioners, to manufacture upon the terms in this section provided, which shall be renewed from year to year so long as such manufacturer shall not violate any provision of this act; but, in case such manufacturer shall be convicted of any such violation, his authority shall cease, and shall not be renewed.

Applicant to file bond with Auditor of county before the grant of such authority.

Before the Commissioners grant such authority, the applicant shall file his bond with the Auditor of the county, with two good and sufficient sureties, to be approved by the Commissioners, in a penalty of not less than one thousand dollars, nor more than six thousand dollars, payable to the State of Indiana, conditioned that the applicant will not, at any time during the year next following, in any manner or degree, violate the provisions of any law of this State touching the manufacture or sale of spirituous or intoxicating liquor. The Auditor of the county shall cause such bond to be put in suit, upon a breach of the condition thereof, in the Circuit Court, or Court of Common Pleas of the county; and if, upon the trial, the finding of the Court, or verdict of the jury, shall be that the condition of the bond has been broken as charged, the Court shall render judgment for the penalty of the bond, and declare the authority of the applicant to manufacture and sell spirituous and intoxicating liquor to be void from and after the first violation of said condition. And every act of the applicant, in selling any spirituous or intoxicating liquor to any person other than a duly authorized county agent, shall subject the applicant to prosecution in the same manner as if he had no authority from the Commissioners to manufacture or sell. The County Commissioners shall not grant to any person authority to manufacture or sell any spirituous or intoxicating liquor who has been found guilty of violating any provisions of this act, or any other act touching the sale of spirituous or intoxicating liquors.

BOND OF MANUFACTURER.

Form of Bond.

Know all men, that we ————, principal, and we ————, sureties, are held and firmly bound unto the State of Indiana, in the penal sum of ———— dollars,

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for the payment whereof, well and truly to be made and done, we bind ourselves, jointly and severally, firmly by these presents: Dated this ——— day of ———, A. D., ——.

Whereas the above bound ———, principal, has been authorized by the County Commissioners of the county of ——— to manufacture spirituous and intoxicating liquors in ——— township, in ——— county, for the period of one year from this date. Now, therefore, the above obligation is conditioned that the said ——— will not, at any time during the year next following, in any manner or degree, violate the provisions of any law of this State touching the manufacture or sale of spirituous or intoxicating liquor. Upon the observance of the foregoing conditions this obligation shall be void, else to remain in full force.

Approved, &c.

County Commissioners may appoint agents of county for the purchase and sale of pure and unadulterated spirituous and intoxicating liquor for medicinal, chemical, and mechanical uses only, and pure wine for sacramental use.

SEC. 5. The County Commissioners, at any meeting of their Board, may appoint some suitable person or persons as agent or agents of the county for the purchase of pure and unadulterated spirituous and intoxicating liquor, and for the sale thereof, within such county, for medicinal, chemical, and mechanical uses only, and pure wine for sacramental use; and the Commissioners may remove any such agent at pleasure, and, if necessary, appoint another in his stead. Not more than two such agents shall be appointed in any one township, unless the township contain over ten thousand inhabitants; in which case the Commissioners may appoint two agents for each ten thousand inhabitants, and one for each five thousand over such ten thousand inhabitants.

Who shall not be appointed agent.

No inn-keeper, or keeper of a public eating house, boarding house, grocery, oyster shop, fruit store, bar room, confectionary, or other place of public entertainment, or the keeper of, or interested in, any theater, museum, or other place of public resort, or the captain, commander, agent, clerk or servant of, or on any vessel, boat or water craft of any kind, shall be appointed such agent. Every agent shall hold his office one year, unless sooner removed; he shall sell such liquor only in one place, to be designated by the Commissioners; and, on the purchase and sale of such liquor, he shall conform to the rules prescribed by the Commissioners, not inconsistent with the provisions of this act.

Duty of agent.

He shall keep an account of all his purchases and sales; the date, quantity, kind, and price of the liquor, and the name of the person of whom purchased; and the date, quantity, price, kind of liquor of each sale, and the name of the purchaser, and the use intended, as stated by the purchaser.

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Such account shall be kept in fair, legible writing, in a book purchased for the purpose; and shall, at all times, be open to public inspection. He shall exhibit his book of entries to the County Commissioners, whenever required by them, at any of their meetings; and he shall report to them, under oath, every three months, the price, quantity, and kinds of liquor of his purchases and sales; and in his report he shall specify the number of sales, and the intended use of each sale, as stated by the purchaser, and the amount he has remaining on hand at the end of each three months. Each agent shall receive such compensation as the Commissioners shall prescribe. He shall not be interested, except as an inhabitant of the county, in any such purchase or sale made by him, or in any profit thereof. Such agent shall sell such liquor at twenty-five per cent. over its cost price, and no more. The county shall not be liable for any debt contracted by such agent, except as herein provided.

Agent shall not sell liquor to be used upon premises where sold, &c.

SEC. 6. Any person, authorized as in the last section provided, shall not sell any liquor to be used upon the premises where the same is sold; but he may sell in the following cases, and no other:

1. To any person of the age of twenty-one years, being of good character for sobriety, and an inhabitant of the county in which such liquor is sold, or of a township or city adjoining said county: *Provided*, The person selling the same shall have good reason to believe that the same is intended by the purchaser to be used for some one of the purposes in the preceding section named, and not to be sold, disposed of, or given away, or to be used on the premises; or,

2. To any person authorized to sell such liquor, as in the last section provided.

Regulations governing agents in purchase and sale of liquors, and requirements before re appointed.

SEC. 7. The County Commissioners of each county shall direct the County Treasurer to pay over to each or any of the agents so appointed by them, such sums of money, out of the treasury, as they shall deem proper for the purchase [of] liquor; or, the Commissioners may agree with the agent to furnish the liquor necessary for the business of his agency at his own expense; the Commissioners paying such agent legal interest upon the money invested, in addition to his compensation. No agent shall be re-appointed until he has made full settlement with the County Commissioners at the close of his agency, and accounted for all money and profits in his hands belonging to the county, nor until he has paid over all such sums of money, if required by the Commissioners, as they shall direct, after deducting the interest due him, and the compensation allowed by the Commissioners.

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Each agent, at the close of his agency, shall deliver over all liquor which he may have on hand, connected with his agency, to such other county agent as the Commissioners, at any session, or the Auditor, in vacation, may direct; he shall also pay over to the Treasurer of the county all moneys in his hands belonging to the county, retaining only sufficient to pay his compensation, and the interest on the money that may have been invested by him. When the agent whose agency has closed, by any means whatever, has invested his own money in the purchase of any liquor which he has on hand, he shall be entitled to receive from the agent, to whom he delivers such liquor, the cost price thereof, as soon as he shall account fairly for all money that may have come into his hands in the course of his agency. The county commissioners shall make provision for the payment of all such sums out of the county treasury, or otherwise. If such agent shall fail or refuse to perform any duty required of him in this section, he and his sureties shall be liable, on the bond of such agent, for all damages sustained by the county in consequence thereof; and such damages, when collected, shall be paid into the county treasury.

Agents to file bond with county auditor before he shall be authorized to purchase or sell spirituous or intoxicating liquor.

SEC. 8. Before any such agent shall be authorized to purchase and sell spirituous or intoxicating liquor, as aforesaid, he shall file his bond with the auditor of the county, with two good and sufficient sureties, payable to the State of Indiana, in a penalty of not less than one thousand dollars, nor more than five thousand dollars, to be approved by the commissioners, and conditioned that he will in all respects conform to the provisions of the law in relation to his agency, and the laws of the State of Indiana touching the sale of spirituous and intoxicating liquor. Upon the breach of the condition of such bond, the auditor shall cause the same to be put in suit in the Circuit Court, or Court of Common Pleas of the county; and if the court or jury shall find, upon the trial, that the condition of the bond has been broken, the court shall render judgment against the defendants for the penalty of the bond and costs.

BOND OF AGENT TO SELL.

Form of bond of agent to sell.

Know all men, that we, ———, as principal, and we, ———, as sureties, are held and firmly bound unto the State of Indiana, in the penal sum of ——— dollars, to the payment of which we bind ourselves, jointly and severally, firmly by these presents. Dated this ——— day of ———, A. D. ———.

Whereas, the county commissioners in the county

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of ———, have appointed the above named ———, agent, (or agents,) to purchase and sell spirituous and intoxicating liquor, in ——— township, in ——— county. Now, the above obligation is conditioned that the said agent (or agents,) shall, in all respects, conform to the provisions of the law in relation to his, (or their,) agency, and the laws of the State of Indiana touching the sale of spirituous and intoxicating liquor. Upon the observance of this condition this obligation to be void, else to remain in full force.

Approved of, &c.

Penalty for manufacturing spirituous or intoxicating liquor in violation of law, or without authority of law.

SEC. 9. Every person who shall manufacture any spirituous or intoxicating liquor in this State, in violation of law, or without authority of law, shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than twenty dollars, nor more than fifty dollars, for the first offense; nor less than fifty dollars, nor more than one hundred dollars, for the second offense; and one hundred dollars for any subsequent offense, and to be imprisoned in the county jail thirty days for each offense after the first conviction, and, in all cases, until the fine and costs are paid or replevied.

Penalty for selling or giving away spiritous or intoxicating liquor in violation of law, or without authority of law.

SEC. 10. Every person who shall, in violation of law, or without authority of law, by himself or agent, directly or indirectly, under any pretense whatever, sell or give to any person, for any valuable consideration whatever, or as an inducement to purchase any article of value, any spirituous or intoxicating liquor, shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, for the first offense, shall be fined in any sum not less than twenty dollars, nor more than fifty dollars; and for the second offense, not less than fifty dollars, nor more than one hundred dollars; and for each subsequent offense, one hundred dollars; and for each offense after the first conviction, shall be imprisoned in the county jail thirty days, and, in all cases, until the fine and costs are paid or replevied; but if such sale be made to a minor, the fine shall not be less than fifty dollars in any case.

Clerks, agents, and servants subjected to same penalties as principals, and may be convicted whether principal is convicted or not.

SEC. 11. All clerks, agents, and servants, of every kind, employed in selling or keeping for sale any spirituous or intoxicating liquor, in violation of law, or without authority of law, shall incur the same penalties and be proceeded against and charged in the same manner as principals, and may be convicted, whether the principal be convicted or not.

Penalty for purchasing intoxicating liquor under

SEC. 12. Any person who shall purchase any spirituous or intoxicating liquor, of any person authorized by

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the Commissioners to sell the same, under a false pretense that the purchase is for a lawful use, with intent to apply the same to an illegal use, or if any person shall apply any such liquor to an illegal use, such person shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of ten dollars and imprisoned until the fine and costs are paid or replevied.

False pretences of persons authorized by commissioners to sell the same.

SEC. 13. No person shall own or keep any spirituous or intoxicating liquor, with intent to sell the same in violation of law, or permit the same to be sold in violation of law; and every person who shall own or keep such liquor, with any such intent, shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, for the first offense, shall be fined in any sum not less than twenty dollars nor more than fifty dollars; and for the second offense, shall be fined in any sum not less than fifty dollars nor more than one hundred dollars; and for each subsequent offense, one hundred dollars; and for each offense after the first conviction he shall be imprisoned thirty days, and in all cases until the fine and costs are paid or replevied. Upon the trial of every complaint charging the defendant with owning, selling, or keeping for sale spirituous or intoxicating liquors, in violation of law, proof of the finding of the liquor specified in the complaint in the possession of the accused, in any place, except his private dwelling house or its dependencies, (or in such dwelling house or its dependencies, if the same be a tavern, public eating house, grocery, or other place of public resort,) shall be received and acted on by the Court, as presumptive evidence that such liquor was kept for sale contrary to the provisions of law.

Penalty for owning or keeping spirituous or intoxicating liquor, with intent to sell the same in violation of law, &c.

SEC. 14. All spirituous or intoxicating liquor, intended by the owner or keeper thereof to be sold in violation of law, and the vessels containing the same, shall be deemed to be a nuisance, and shall be forfeited and be disposed of as hereinafter provided.

When spirituous or intoxicating liquor is to be forfeited as a nuisance.

SEC. 15. If any three persons of good moral character, residents of the county, shall file their verified complaint or affidavit with any mayor or justice of the peace of the county, that any spirituous or intoxicating liquor is owned or kept in said county, in any place therein, particularly describing the premises, by any person, whose name shall be stated, if known to the deponents, and if the name is unknown, it shall be so stated in the complaint, and is intended to be sold in violation of law, as the deponents have reason to believe, and verily do believe, the justice of the peace or mayor shall issue his

When and how mayor or justice of the peace may issue warrant to search for spirituous or intoxicating liquor.

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warrant, directed to the sheriff of the county, or to any constable of the county, or marshal of the city, reciting the material part of said complaint, and directing the officer to search thoroughly the said place, to seize the liquor, with the vessels containing it, and to keep the same securely until final action is had thereon; whereupon the officer to whom the warrant may be delivered, shall execute the command of the warrant forthwith, as far as he can, and make return of his doings to the officer issuing such writ, and shall securely keep all liquors so seized by him, if any, and the vessels containing it, until final action is had thereon. But no warrant shall be issued under this act to search any dwelling house in which or a part of which no tavern, store, grocery, business office, shop, boarding or victualing house, or public room of any kind, is kept, unless the occupant thereof shall have been convicted, as herein provided, of having sold liquor in his dwelling house, or suffered it to be done, within six months next preceding the issue thereof.

Whenever it shall appear to justice or mayor that any spiritous or intoxicating liquor has been seized, he shall forthwith issue a notice to all persons concerned of the seizure, &c.

SEC. 16. Whenever it shall appear to such justice or mayor, by the return of the officer serving the warrant, that any spirituous or intoxicating liquor has been seized by the officer, the justice or mayor shall forthwith, after the return, issue a notice to all persons concerned of the seizure, and issue a summons, commanding the person so keeping or owning the liquors so seized, as aforesaid, to appear before him, at his office, at a time to be specified, not less than three nor more than twenty days from the service thereof, to show cause, if any he has, why such liquor, so seized as aforesaid, with the vessels containing it, shall not be forfeited and the liquor destroyed; and the officer to whom the summons shall be directed shall serve the same forthwith, by reading to the person named therein, or by leaving a copy thereof at his place of residence, if he reside in the county, and by posting a copy of the notice in some conspicuous place on the premises where said liquor was seized. If the name of the person owning or keeping said liquor shall be unknown to the justice, he shall issue a notice only of the seizure of such liquor to all persons concerned, a copy of which shall be posted up, by the officer serving the same, in some conspicuous place on the premises where the liquor was seized, not less than three nor more than twenty days before the day set for trial.

Person accused, or any other person interested in the liquor seized, may appear as defendant, &c.

SEC. 17. At the time and place set for trial, the person accused, and any other person claiming an interest in the liquor seized, may appear as defendant, and show cause, if any he has, why the liquor seized should not

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be forfeited. No pleading shall be required by the defendant but a denial of the charges in the complaint, and under such plea the defendant may give in evidence all matters of defense. Either party may demand a jury of any number not exceeding twelve men, or the cause may be tried by the justice or mayor where no jury is demanded. If the jury, or the justice or mayor trying the cause, find that the liquor, or any part of it, was kept for the purpose of sale, in violation of law, the justice or mayor shall enter judgment that the liquor was so seized as aforesaid, or so much thereof as was kept for such purpose, and the vessels containing it, are a nuisance, and that the same be forfeited, and that such liquor be destroyed. If no person appear at the trial, after the notice has been posted up, and the summons, if one has been issued, has been served as above provided, the cause shall, in like manner, be tried by a jury, or the justice or mayor; and if it is found that the liquor seized, or any part thereof, was kept for sale in violation of law, a like judgment shall be rendered as above provided.

If judgment is rendered that the liquor so seized is forfeited, justice, mayor, or court rendering final judgment of forfeiture, shall issue order, &c.

SEC. 18. Whenever judgment is rendered that the liquor so seized as aforesaid is forfeited, the justice, or mayor, or court rendering final judgment of forfeiture, shall issue an order to the proper officer, directing him to destroy said liquor, and to sell the vessels containing it as other property is sold on execution, without appraisement, and the proceeds of such sale shall be applied to the payment of the costs of the proceedings in the case. The officer shall execute such order and return it, as required by this act, with his doings indorsed thereon.

Officer to return liquor and vessel containing it to place where seized, whenever it is decided that the liquor is not liable to forfeiture.

SEC. 19. Whenever it is decided that liquor so seized is not liable to forfeiture, the justice, mayor, or court trying the cause, shall issue an order to the proper officer to restore the said liquor, with the vessels containing it, to the place where it was seized. The proper officer shall, at the expiration of three days, execute the order, and make return thereof with his proceedings indorsed thereon, if no appeal is taken by the State.

Every device or contrivance declared a nuisance.

SEC. 20. Every device or contrivance made use of to deal out or sell intoxicating liquor to customers, and at the same time to conceal or disguise the person selling or dealing out such liquor, with intent to prevent the purchaser from identifying the person selling or dealing out such liquor, is hereby declared to be a nuisance; and

What mayor, justice, or court to do.

every mayor of a city, justice of the peace, or court of common pleas, may, upon complaint made under oath, cause notice to be given to the owner or tenant of the

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place where such device or contrivance is used, and, after three days' notice, try the cause; and if the mayor, justice, or court, or jury trying the cause, find that such nuisance exists, such mayor, justice, or court shall order the proper officer to abate the nuisance by the destruction or removal of device or contrivance resorted to. The proper officer shall execute such order forthwith and return it with his doings indorsed thereon.

Penalty for resorting to device or contrivance

SEC. 21. Every person who shall resort to any such device or contrivance specified in the next preceding section, for the purpose therein specified, shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than fifty dollars nor more than two hundred dollars, and imprisoned in the county jail not less than thirty days, nor more than ninety days, and until the fines and costs are paid or replevied.

Duty of sheriff, constable, &c., in regard to persons violating this act.

SEC. 22. It shall be the duty of every sheriff, deputy sheriff, constable, marshal, or policeman, to arrest any person whom he shall see actually engaged in any violation of this act, and to seize all liquors kept in violation thereof, at the time and place of the commission of such offense, together with the vessels containing the same, and to forthwith take such person before any magistrate of the county, to be dealt with according to law, and to store such liquor and vessels so seized in some safe and convenient place, to be disposed of as in this act provided. It shall be the duty of every officer by whom any arrest and seizure shall be made, under this section, to make complaint, on oath, before such magistrate, against the person or persons arrested, and to prosecute such complaint to judgment and execution. It shall be the duty of every such officer, whenever he shall see any intoxicated person in any public place, or disturbing the public peace and quiet, to apprehend such person and take him before some magistrate; and if such magistrate shall deem him too much intoxicated to be examined, or to answer upon oath correctly, he shall direct such officer to keep such intoxicated person in some safe and convenient place, to be designated by such magistrate, until he shall become sober, and thereupon forthwith to bring him before such magistrate; and such magistrate shall then administer to such person an oath or affirmation, and examine him for the purpose of ascertaining whether any offense has been committed against any provision of this act by any other person; and if such witness refuse to answer any question propounded by such magistrate touching such offense, he shall be imprisoned in the county jail until he consents to answer.

What magistrate to do with intoxicated persons.

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If such witness shall disclose any violation of this act, the magistrate shall reduce such examination to writing, in the form of a complaint against the person so offending, which said witness shall sign, under the penalty aforesaid, and verify the same by his oath or affirmation.

Penalty for mixing drugs with liquor.

SEC. 23. If any person shall mix drugs with any spirituous or intoxicating liquor, to sell the same to be used as a beverage, or shall keep for sale or sell any drugged liquor, to be used as a beverage, he shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, he shall be fined in any sum not less than twenty-five dollars, nor more than two hundred dollars, and be imprisoned in the county jail thirty days, and until the fine and costs are paid or replevied. The possession of such drugged liquor, with the usual vessels and furniture for selling liquor, shall be presumptive evidence that such drugged liquor was kept for the purpose of illegal sale.

What shall be evidence that drugged liquor was kept for illegal sale.

Who shall be lawful jurors.

SEC. 24. No person who shall at the time be an habitual drinker of intoxicating liquor, or who shall have been engaged in the unlawful manufacture or sale of intoxicating liquor, or who shall have kept any intoxicating liquor for unlawful sale, shall, within one year thereafter, be a competent juror in the trial of any prosecution, under the laws, touching the unlawful manufacture, sale, or keeping for sale, of any spirituous or intoxicating liquors. Any person summoned as a juror may be inquired of, under oath, as to his competency relative to the matters specified in this section; and the person inquired of shall make full and true answers, but his answers shall not be used against him in any prosecution for the same matter; or he may decline to answer, in which case he shall be set aside as incompetent.

Contracts, &c., made in certain cases void.

SEC. 25. All contracts, notes, bills, bonds, deeds, and mortgages, made in consideration of the illegal sale of intoxicating liquor, shall be absolutely void; and all contracts, notes, bills, bonds, deeds, and mortgages, made in part consideration of the illegal sale of intoxicating liquor, shall be void so far as the illegal consideration is concerned. All money, and every article of value of every kind, or the value thereof paid or transferred for the illegal sale of intoxicating liquor, may be recovered by the person paying or transferring the same.

Money paid for illegal sale of liquor recovered by person paying same.

Manufacturing and keeping for sale certain articles not prohibited by this act.

SEC. 26. Nothing contained in this act shall be so construed as to prohibit the manufacture or keeping for sale, or the sale of burning fluids of any kind, perfumery, essences, chemicals, dyes, paints, varnishes, cosmetics, solutions of medicinal drugs, medicinal compounds, or

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any other article which may be compounded in part of alcohol or other spirituous liquors, if not adapted to use as a beverage: *Provided, however*, that if such article is capable of being used, or is intended to be used as a beverage, or in evasion of said act, the manufacture or keeping for sale, or sale thereof, shall be deemed a violation of this act.

Proviso.

Duty of city and district attorneys

SEC. 27. It shall be the duty of the city attorney to prosecute all suits under this act which may be brought before the mayor of any city; and it shall be the duty of the district attorney, by himself, or by deputy, to prosecute all suits under this act, which may be brought before a justice of the peace, or before the court of common pleas of the county or district, and to prosecute all appeals of suits under this act in the circuit courts and courts of common pleas of his county or district; and where there is no city attorney, he shall prosecute all suits under this act before the mayor of any city.

What courts to have concurrent jurisdiction.

SEC. 28. Courts of common pleas, justices of the peace, and mayors of cities, shall have original concurrent jurisdiction of all offenses against the provisions of this act. The jurisdiction of mayors, and of justices of the peace, shall extend throughout the county.

Prosecutions before justice of the peace or mayor to be on complaint under oath

SEC. 29. Every prosecution under this act before a justice of the peace, or mayor of a city, shall be upon complaint under oath or affirmation; and every prosecution under this act in the Court of Common Pleas, shall be upon complaint under oath or affidavit and on information founded thereon.

Costs to be assessed as in criminal cases, and docket fee of $5 to be taxed in favor of prosecuting attorney.

SEC. 30. Costs shall be assessed in proceedings under this act as in other criminal cases, except when otherwise provided; but in all cases of conviction a docket fee of five dollars shall be taxed in favor of the attorney who prosecutes such case; and, in the absence of the prosecuting attorney, the court trying such cause is authorised to appoint an attorney to prosecute such complaint. In case of final conviction in appellate court the accused shall pay all costs, including docket fees, which may have been assessed against him in the inferior court or courts.

Person claiming interest in spirituous liquor to make it known on trial or else forfeit claim.

SEC. 31. If any person claiming any interest in any spirituous or intoxicating liquors seized as a nuisance, and having knowledge or notice, as required by this act, of the seizure, shall not assert his claim upon the trial, he shall be deemed to have waived his claim, and shall not afterwards assert any right thereto whatever, or any claim for damages. Judgment of forfeiture against any spirituous or intoxicating liquor, under the provisions of this act, shall operate as a judgment, *in rem*, and the

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validity of such judgment shall not be contested or questioned in any action, in any court, by any person, except by appeal of the cause in which judgment of forfeiture is declared; and no court shall take jurisdiction of any action of replevin or any other action to try the validity of the proceedings in which the forfeiture is declared, except as herein provided.

Appeal granted, and conditions thereof.

SEC. 32. Any person feeling aggreived by any judgment of the Mayor of a city, or Justice of the Peace, may appeal within thirty days, to the Court of Common Please or Circuit Court of the county, but the appellant shall, before the appeal is granted, enter into a recognance before the Justice or Mayor with approved security in the penal sum of twice the amount of the judgment and costs, conditioned that the appellant will personally appear in the appellate court, and pay the judgment and costs that may be rendered against him, and abide the order of the court, and not depart without leave.

Magistrate to make out fair transcript and file it, with all papers in the case.

SEC. 33. When any appeal is taken the magistrate shall forthwith make out a fair transcript of the proceedings and file it with all the papers in the cause, and the appellate court shall try the cause with or without a jury and render a judgment, and enforce it according to the provisions of this act.

If judgment is rendered that liquor seized as a nuisance is forfeited, liquor deposited with county agent.

SEC. 34. Whenever any spirituous or intoxicating liquor is seized as a nuisance under any provision of this act, the officer seizing it shall keep the same safely in some secure place until final judgment; and if judgment of forfeiture be given against such liquor, or any part of it, he shall deposit such liquor with the County Agent, duly appointed to sell intoxicating liquor, for safe keeping, and taking his receipt therefore for safe keeping; and if no appeal is taken within thirty days, the officer shall return the receipt for safe keeping, and take and destroy the liquor under the order of the Court trying the cause. But if any appeal is taken, the officer shall return his order to the proper Court, endorsed that he had delivered the liquor so seized to the County Agent for safe keeping, and the County Agent shall keep such liquor subject to the order of appellate Court. Whenever judgment is given against the State upon the seizure of such liquor as a nuisance, the attorney prosecuting the action, or the district attorney, may cause the action to be taken to the appellate Court upon appeal, at any time within three days, without any bond being filed on the part of the State. And the officer seizing the liquor shall not return it to the place of seizure until the expiration of three days; and upon an appeal being

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taken on the part of the State, he shall deposit the liquor seized with the county agent for safe keeping, and make his return accordingly. Whenever final judgment is given against the State in such cause, that the liquor so seized is not a nuisance, and not subject to forfeiture, the county shall pay the costs of the seizure, carriage, safe keeping, and return of the liquors, and the fees of officers, jurors, and witnesses in such cause; but the county shall be liable for no other costs in any case except the keeping of persons under arrest and imprisonment for a violation of this act, as in other cases.

In case final judgment is against State that liquor seized is not a nuisance county to pay costs, &c.

Bond, or writing or recognizance not invalidated by defect.

SEC. 35. No defect in any bond, or writing, or recognizance, with security required by this act, shall, in any manner, invalidate the same, but the person executing it shall be bound to the full extent of the law requiring the bond, writing, or recognizance.

Persons may be prosecuted in circuit or common pleas court for violating condition of bond.

SEC. 36. Every person who has been authorised to manufacture spirituous and intoxicating liquor, and [has] given bond with sureties therefor; and every person who has been appointed an agent to purchase and sell spirituous and intoxicating liquor, and has given bond and security therefor, as required by law, may be prosecuted in the circuit court or court of common pleas with the surety upon his bond, for a breach of the condition thereof, and may be prosecuted in a criminal proceeding for a violation of the law at the same time; and if he is found guilty and fined for a violation of the law, and the penalty of his bond shall be declared forfeited for the same violation of law, and payment made upon the fine imposed in the criminal case shall be credited upon the judgment rendered upon the bond.

Not necessary, in any complaint, to specify number of complaints.

SEC. 37. It shall uot be necessary in any complaint, affidavit, or information, under the provisions of this act, to allege that the offense charged was a second, third, or any subsequent offense by the accused person against the same provision of this act, but if it shall appear in evidence upon the trial that the person accused has been before convicted of the same offense with which he stands charged, the mayor, justice, or court shall render judgment accordingly.

Words, how to be construed.

SEC. 38. In the construction of this act, words importing the singular number only may also be applied to the plural of persons and things; and words importing the masculine gender only may be extended to females also.

Repeal, and its effect on suits, &c. now in progress.

SEC. 39. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed; but such repeal of any former act shall not effect any suit, proceeding or prosecution commenced or prosecuted under

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the same; and all such suits, proceedings and prosecutions now pending shall be prosecuted to final judgment and execution in the same manner as if such laws were not repealed.

What the term magistrate includes.

SEC. 40. The term magistrate as used in this act includes justices of the peace, mayors of cities, and judges of the courts of common pleas during the sitting of said courts.

Persons fined to same extent for giving away liquor as for selling.

SEC. 41. No spirituous or intoxicating liquors shall be given away, or be kept with intent to be given away, in any tavern, boarding house, public eating house, grocery, oyster shop, store, bar-room, confectionary, or other place of public entertainment; or in any theater, museum, or other place of public resort; or on any steamboat, or other craft, carrying passengers; and for any violation of this section, the person so offending shall be fined [to] the same extent as for selling such liquor contrary to this act.

When to take effect and duty of officers connected therewith.

SEC. 42. This act shall take effect and be in force from and after the twelfth day of June next; and the Secretary of State shall cause one thousand copies thereof to be printed in pamphlet form, as soon as practicable, and transmit three copies of the same to the Clerk of each of the Circuit Courts of this State, who shall file the same in his office; and said Clerk shall immediately upon the reception of such copies, forward a certificate, under the seal of such court, to the Secretary of State, and a like certificate to the Governor, of the time of the filing of this act in his office, and when such certificate has been received from all the counties of this State, the Governor shall publish his proclamation stating such fact, which shall be received in evidence in all the Courts in this State of the fact of such filing.

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## CHAPTER CVI.

AN ACT to repeal sections two and three, of an act entitled, "An act to regulate the retailing of spirituous liquors, and for the suppression of evils arising therefrom," approved March 4th, 1853, and declaring all licenses heretofore issued under said act, null and void, from and after the first Monday in April next.

[APPROVED MARCH 2, 1855.]

What repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That sections two and three of an act entitled, "An act to regulate the retailing of spirituous liquors and for the suppression of evils arising therefrom," approved March 4th, 1853, be and the same are hereby repealed.

License heretofore granted null and void after 12th June next.

SEC. 2. All licenses for the sale of spirituous liquors heretofore granted under the provisions of said act, shall cease and be null and void from and after the 12th day of June next.

Emergency.

SEC. 3. Whereas it is represented that applications are being made to county auditors for license to sell spirituous liquors under said act, with a view to avoid the provisions of an act entitled, "An act to prohibit the manufacture and sale of spirituous and intoxicating liquors, except in the cases therein named, and to repeal all former acts inconsistent therewith, and for the suppression of intemperance," approved Feb. 16th, 1855. it is declared that an emergency exists for the immediate taking effect of this act, therefore, this act shall take effect and be in force from and after its passage.

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## CHAPTER CVII.

AN ACT to amend the 14th section of an act approved June 17th, 1852, entitled "An act to enable trustees to receive lands and donations, and convey the same for the use of schools, churches, religious societies, Masonic and Odd Fellows' Lodges, Sons and Daughters of Temperance, and for the construction of Cemeteries, Houses of Worship, and other buildings therein mentioned."

[APPROVED MARCH 3, 1855.]

What amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the 14th section of chapter 101 in the 1st volume of the Revised Statutes of Indiana of 1852, which section reads as follows: Section

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14. When any society within the meaning of this act shall have been dissolved from any cause, a majority of the persons interested therein renew the same within five years after such dissolution, by electing a new board of trustees and making record of such election in the recorder's office of the proper county, as hereinbefore appointed." Be amended to read as follows, to wit: Sec. 14. When any society within the meaning of this act shall have been dissolved from any cause, a majority of the persons interested therein may revive the same, within five years after such dissolution, by electing a new board of trustees, and making record of such election in the recorder's office of the proper county, as hereinbefore provided; and whenever from any cause any church or religious society, holding and possessing property within the meaning of this act, shall have been dissolved, the annual or quarterly conference, or other ecclesiastical body, to which such church or religious society is directly subordinate, shall have power to appoint trustees, in accordance with the customs and usages of said church, to take the charge and control of the property of said church or society, until it shall be revived as contemplated by this act. How amended.

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## CHAPTER CVIII.

AN ACT to amend the seventy-first section of an act entitled "An act to provide for the valuation and assessment of the real and personal property, and the collection of taxes, in the State of Indiana, for the election of township assessors, and prescribing the duties of assessors, appraisers of real property, county treasurers and auditors, and of the Treasurer and Auditor of State," approved June 21st, 1852, so as to authorize assessors to correct errors in assessment of real estate.

[APPROVED MARCH 1, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the seventy-first section of an act entitled "An act to provide for the valuation and assessment of the real and personal property, and the collection of taxes in the State of Indiana, for the election of township assessors, and prescribing the duties of assessors, appraisers of real property, county treasurers and auditors, and of the Treasurer and Auditor of State," approved June 21st, 1852, which is in the following words, to wit: "Sec. 71. Each township assessor shall, at the time he is required by this act to make Sec. 71 amended.



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return of taxable property to the county auditor, also deliver to him all the statements of property which he shall have received from persons required to list the same, arranged in alphabetical order, corresponding with his list or lists, and the auditor shall carefully preserve the same in his office;" be and the same is hereby amended so as to read as follows, to wit: Sec. 71. Each assessor shall, at the time he is required by this act to make return of taxable property to the county auditor, also to deliver to him all the statements of property which he shall have received from persons required to list the same, arranged in alphabetical order, corresponding with his list or lists, and the auditor shall carefully preserve the same in his office; and each assessor may, when taking lists of personal property, correct all errors of assessment of real estate which he may discover on the assessor's book, either in the name of the person to whom the property is assessed by change of ownership, or otherwise, or in the description of property, and make return of same to the county auditor, at the same time they are required to make return of the lists of personal property.

How amended.

Emergency.

SEC. 2. Whereas the assessors in the several counties of this State are now engaged in taking lists of personal property, and it is important that they should at once have the authority to correct errors given by this act, therefore, it is hereby declared that an emergency exists for the immediate taking effect thereof, and this act shall take effect and be in force from and after its passage.

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## CHAPTER CIX.

AN ACT concerning the organization of voluntary associations, and repealing former laws in reference thereto.

[APPROVED FEBRUARY 12, 1855.]

What repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled "An act to authorize the formation of voluntary associations," approved May 13th, 1852, the act amending the same, approved February 4th, 1853, and the act entitled "An act to authorize voluntary associations to hold and convey property," approved February 9th, 1853, be and the same are hereby repealed.

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SEC. 2. *Be it further enacted*, That any persons may voluntarily associate themselves together for either of the following purposes: For what purposes persons may voluntarily associate themselves together.

*First*—To establish and maintain horticultural, literary, or scientific associations.

*Second*—To organize military or fire companies.

*Third*—To provide suitable grounds for the burial of the dead, for public walks and commons, and to ornament the same with shade trees and shrubbery.

*Fourth*—To plant, cultivate, and preserve shade trees, in the public squares and along the streets of towns.

*Fifth*—To organize Masonic or Odd Fellows' Lodges, subordinate to their several Grand Lodges, and also, Divisions of the Sons and Daughters of Temperance, or other charitable associations and orders.

*Sixth*—To erect and maintain suitable buildings for public meetings.

*Seventh*—To import horses, cattle, sheep, hogs, and other animals, for agricultural purposes.

SEC. 3. Every such association shall be formed by written articles specifying the objects of the same, the conditions of membership, the corporate name, with an impression and description of the corporate seal, and signed by each person who may be a member at the time of the organization under this act. Association formed by written articles, specifying the objects, &c.

SEC. 4. Every such association shall file their articles aforesaid, in the office of the recorder of the county in which such association may be formed, shall pay the expense of filing and recording, and such recorder shall record the same in the book of records of deeds in his office, and such record, or a certified copy thereof, shall be conclusive evidence of the matters and things therein recited. Association to file articles in recorder's office. Duty of recorder.

SEC. 5. Every such association shall, from the time such record is made, be deemed and held to be a corporation, and shall have and possess the powers, rights, and privileges given to corporations by common law, and may continue for a term not exceeding fifty years. From time record is made to be deemed a corporation.

SEC. 6. Every such corporation shall have power to acquire, by purchase or otherwise, hold, and convey, such real and personal property as may be necessary and proper, for the purpose of erecting, furnishing, and keeping in repair buildings for its occupancy, and for other specific purposes of such corporation; *Provided*, that the annual value of the income of the property of any such corporation does not exceed five thousand dollars. Power of corporation in regard to acquiring and holding property. Proviso.

SEC. 7. Such corporation may, at its discretion, divide their stock or corporate property into shares, not Corporation may divide stock into shares.

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exceeding thirty dollars each, and determine the manner in which the same may be holden and conveyed.

Duty of clerk or secretary of corporation.

SEC. 8. The clerk or secretary of every such corporation shall keep a fair record of the proceedings thereof, in a book provided for that purpose; and such records, or copies, duly attested by such clerk or secretary, may be read in evidence when the interests of such corporations are concerned.

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## CHAPTER CX.

AN ACT to amend section 3 of an act entitled "An act for the regulation of weights and measures," approved June 9th, 1852.

[APPROVED FEBRUARY 28, 1855.]

Sec. 3 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section third of an act entitled "An act for the regulation of weights and measures," approved June 9th, 1852, which section third reads as follows, to-wit: "Sixty pounds of [merchantable] wheat (avoirdupois weight) shall be given and taken for a standard bushel; of shelled corn fifty-six pounds; of corn on the cob sixty-eight pounds; of buck-wheat fifty pounds; of beans sixty pounds; of potatoes sixty pounds; of clover seed sixty pounds; hemp seed forty-four pounds; bluegrass seed fourteen pounds; castor beans forty-six pounds; dried peaches thirty-three pounds; dried apples twenty-five pounds; onions fifty-seven pounds; salt fifty pounds; mineral coal seventy pounds; timothy seed forty-five pounds;" be so amended that

Law amended.

the same shall read as follows, to-wit: That sixty pounds of wheat (avoirdupois weight) shall be given and taken for a standard bushel; of shelled corn fifty-six pounds; of corn on the cob sixty-eight pounds; of buck wheat fifty pounds; of beans sixty pounds; of potatoes sixty pounds; of clover seed sixty pounds; hemp seed forty-four pounds; blue grass seed fourteen pounds; castor beans forty-six pounds; dried peaches thirty-three pounds; dried apples twenty-five pounds; onions forty-eight pounds; salt fifty pounds; mineral coal seventy pounds; timothy seed forty-five pounds; rye fifty-six pounds; oats thirty-two pounds; of flax seed fifty-six pounds; barley forty-eight pounds; corn meal fifty pounds; and two thousand pounds of hay shall be taken for a tun.

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# CHAPTER CXI.

AN ACT to establish a Bank with Branches.

Bank and branches created.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be, and there is hereby, established a bank, with so many branches, as shall be organized under this charter, to be known and styled "The Bank of the State of Indiana," which shall continue as such for the term and period of twenty years from the date of its organization, and for such longer period thereafter as shall be necessary promptly to close its business, as hereinafter provided.

Name and style.

Commissioner to take oath.

SEC. 2. That Thomas L. Smith, Andrew L. Osborn, Jehu T. Elliott, Addison L. Roache, and John D. Defrees, are hereby appointed commissioners, who, before entering upon their duties, shall take an oath diligently, faithfully, and impartially, to perform the duties assigned them by this act. They shall keep a true record of all their proceedings, which, together with all the books and papers pertaining thereto, they shall deliver to the board of directors of said bank when the same is organized.

Commissioners, when and where to meet. To divide State into bank districts. To appoint two sub-commissioners for each district.

SEC. 3. Said commissioners shall meet at the city of Indianapolis, within ninety days after the passage of this act, and if any of their number shall refuse to serve, shall die or resign, they shall fill such vacancy or vacancies by the appointment of some suitable persons thereto; and they, or a majority of them, are authorized and it shall be their duty to divide the State into not less than fifteen, nor more than twenty, bank districts, and to locate one branch of the said bank in each of said districts, at such place as they shall designate, selecting, where it can be done, other things being equal, in each district wherein a branch of the present State Bank of Indiana is now located, the same county in which such branch is located; and they shall appoint two sub-commissioners for each of said districts, who shall be residents therein, to receive subscriptions of stock, and perform such other duties as may be required by this act. If said commissioners do not make the whole number of districts authorized by this act, the board of directors of the bank may, at any time after being organized, lay off from time to time additional districts, and locate branches therein: *Provided*, That the whole number established shall not exceed the number herein authorized.

Proviso.

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Branches failing to organize bank may be opened annually thereafter.

SEC. 4. Should any of the branches herein established fail to organize, as herein contemplated, it shall be the duty of the directors of the bank, once in each year thereafter, if required by any number of the citizens who will be responsible for the expense, to open books of subscription within such district, and locate and organize a branch therein, at such place as they may select, if the amount of stock herein required shall be taken and paid for under the provisions of this act.

Office of Bank. Meeting of directors. Corporate powers.

SEC. 5. The said bank shall keep an office at the city of Indianapolis, and the directors thereof shall meet and hold their sessions at least once in three months. It shall be a body corporate and politic, with power to sue and be sued, plead and be impleaded, in any court of law or equity having jurisdiction, and to transact all other lawful business herein permitted them to do; and shall have power by and through her branches, and not otherwise, to loan money, buy, sell and negotiate bills of exchange, checks, promissory notes, and other evidences of debt, to discount, on banking principles and usages, bills of exchange, post notes, promissory notes, and other negotiable paper or obligations for the payment of money; to receive deposits, to buy and sell gold, silver, bullion, and foreign coins; to draw, issue, and put in circulation, bills, notes, post notes, bills of exchange, and other evidences of debt, payable to order or bearer, and not otherwise; and all such notes and bills put in circulation as money, except post notes and bills of exchange, shall be made payable on demand; and to exercise such other incidental powers as shall be necessary to carry on such business.

What real estate may be held by Bank. Shall be sold, &c.

SEC. 6. The real estate which it shall be lawful for said bank to purchase, hold and convey, shall be—first, such as shall be required for its immediate accommodation in the convenient transaction of its business; or, second, such as shall have been mortgaged to it in good faith by way of security for stock, loans previously contracted, or for moneys due; or, third, such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or, fourth, such as shall have been purchased at sales upon judgments, decrees or mortgages, obtained or made for such debts; and the said bank shall not purchase, hold, or convey real estate, in any other case, or for any other purpose; and all such real estate not absolutely necessary for the convenient discharge of its business, shall be set up, at least once a year, at public sale, after having given thirty days' notice of such sale, describing the property to be sold, and the name of the mortgagor, in at least one

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newspaper in the district where said bank is situate, and placing three written notices in the most public places in the town where the bank is located, and shall be sold, if the same will bring the amount of the debt, interest, and costs for which the same may have been bought, received, or taken by the bank, and which shall remain after deducting all profits received therefrom.

Conveyance of real estate.

SEC. 7. All conveyances of real estate shall be signed by the president of the bank, and have affixed the seal thereof.

Specie payment of notes, &c. Payment refused. holders entitled to interest.

SEC. 8. The said bank shall not at any time suspend or refuse payment, in gold or silver, of any of its notes, bills, or obligations, due or payable, nor of any moneys received upon deposit; and if said bank at any time refuse or neglect to pay any bill, note, or obligation, issued by such bank, if demanded within the usual banking hours, at the proper branch where the same is payable, according to the contract, promise, or undertaking therein expressed, or shall neglect or refuse to pay on demand, as aforesaid, any moneys received on deposit, to the person or persons entitled to receive the same, then, and in every such case, the holder of any such bill, note, or obligation, or the person or persons entitled to demand or receive such moneys, as aforesaid, shall respectively be entitled to receive and recover interest on their said demands, until the same shall be fully paid and satisfied, at the rate of twelve per centum per annum, from the time of such demand, as aforesaid; and any branch so failing to meet its engagements may be closed, as in case of insolvency.

Bank and branches responsible for each other.

SEC. 9. The said bank, and each and every branch thereof, shall mutually be responsible for all the debts, notes, and engagements of each other; and the stockholders of each and every branch shall be held and bound to an amount over and above their stock equal to their respective shares of stock, for all debts and liabilities of said bank or any of her branches.

Suits against the bank, how brought.

SEC. 10. All suits or actions against said bank, on any contract or engagement made, or liability incurred by the board of directors of the bank, or on any contract or engagement made or liability incurred by the board of directors of any branch, or any bank bill or note, shall be brought against the Bank of the State of Indiana.

Process and on whom served.

SEC. 11. The process in such case shall be a summons, and shall be served on the president of the bank, in all cases where the contract, engagement, or liability sued for shall have been made by the board of directors of said bank; and in all cases where the contract, engagement, or liability sued on, has been made or incurred

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by a branch, the process shall be served on the president of such branch; and so also where the suit shall be brought on any bank bill or note, the process shall be served on the president of the branch at which such bill or note shall have been made payable, or, in all such cases a copy of the process may be left at the banking house, or place of doing business of the bank, or of the proper branch, as the case may be, during the usual hours of business, which shall be good service. And it is hereby made the duty of the president, or any other officer of any branch knowing of such service, forthwith to notify the president and directors of the bank thereof. In all suits brought against said bank, on any note, engagement, or liability of any branch, such suit shall be brought in the county where such branch may be situate; and all suits brought against the bank on any note, engagement, or liability of the bank, shall be brought in the county of Marion.

Copy of process left at banking house good service. Directors and bank to be notified of suit against a branch.

Suits, where to be brought.

No stay of execution.

SEC. 12. There shall be no stay of execution on any judgment against said bank, nor shall she be entitled on judgment or execution against her to the benefit of valuation or appraisement laws.

Interest chargeable at bank.

SEC. 13. Said bank shall be entitled to charge and receive for money loaned the legal rate of interest established by law in this State, and not more, and the same may, according to bank rules, be taken in advance out of the sums loaned, and may be computed according to the standard and rate set forth in "Rowlet's Tables," reckoning the days for which a note or bill has to run inclusively; but it shall not, directly or indirectly, place any money in the hands of any broker or other person, to be loaned to others, or charge, take, or receive any interest, compensation, or benefit, whatever, from any loan made by any other person or party, whether such loan be made from its own funds or otherwise.

Dividend of profits among stockholders.

SEC. 14. The profits arising, after paying expenses and reservation for a contingent or surplus fund, shall be divided among the stockholders according to the amount of stock owned and paid in by each; and in making this calculation and division of profits, each branch shall be independent of the others, and its own profits be divided among its own stockholders.

Capital stock taxable for State and county purposes, but not for municipal purposes.

SEC. 15. The capital stock of said bank shall be subject to the same rate of taxation for State and county purposes as the property or stock of other moneyed corporations; and the real estate and other property of said bank and branches, situated in any city or town, shall be taxable for municipal purposes, in the same manner as other property so situated, but the capital stock of

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said bank or branches shall not be taxable for municipal purposes.

Persons inelligible to offices in bank, &c.

SEC. 16. The person administering the government of this State, Secretary of State, Treasurer, Auditor of Public accounts, Commissioner of Canal Fund, Judge of the Supreme or any inferior Court, or any person holding an office or appointment under the authority of the General Government, shall not, while in such office, hold the office of president of the bank, director of the bank, or president, director, or cashier of any branch, nor that of a member of the General Assembly; nor shall any president, cashier, or director of any branch, at the same time, hold the office of president or director of the bank, on the part of the State, or the office of president, director, or cashier of another branch.

Notes by whom signed, and where payable.

SEC. 17. The notes issued by said bank shall be signed by the president of the bank, and shall be made payable at the branch which shall issue the same, and shall be signed by the cashier of such branch.

Shall not buy goods, &c., with capital stock.

SEC. 18. It shall not be lawful for said bank at any time, to use or employ any part of its capital stock or other funds in the buying or selling of goods, wares, or merchandise, or in any other business or dealing, than is by this act authorized and permitted.

Public deposits may be received.

SEC. 19. It shall and may be lawful for said bank or any branch thereof, to accept, receive, and become responsible for the deposits and public revenues of the United States, upon such terms and conditions as may be agreed upon by the agents of the general government and a majority of the directors of said bank.

Articles receivable on deposit.

SEC. 20. That it shall be lawful for said bank to receive on deposit (exeept as above prohibited) moneys, bullion, plate, and other articles of value or small bulk, on such terms and conditions as may be agreed upon by the parties.

Directors not to locate branches unless authorized.

SEC. 21. It shall not be lawful for the directors of the said bank to locate any other branch or branches of said bank than is herein authorized.

Capital stock increased by individual subscription.

SEC. 22. The capital stock of said bank may be increased by individual subscriptions at any one or more branches, by and with the assent and concurrence of the directors of the bank.

Agent appointed by General Assembly.

SEC. 23. The General Assembly may at any time appoint an agent to examine the state and condition of said bank, and each and every branch thereof, who shall have the same power and rights as examiners appointed by the directors of the bank; and when any agent as aforesaid shall find and report, or the Governor of the State shall have reason to believe that the charter

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has been violated, it may be lawful for the Legislature to direct, or the Governor to order a *scire facias* to be sued out of the Marion Circuit Court in the name of the State, (which shall be executed upon the President of the bank for the time being at least fifteen days before the commencement of the term of said Court), calling on the said corporation to show cause wherefore the charter hereby granted shall not be declared forfeited; and it shall be lawful for said Court upon the return of said *scire facias*, to examine into the truth of the alleged violation, and if such violation be made appear, then to pronounce and adjudge the said charter is forfeited and annulled; and every issue of fact which shall arise in such proceeding and may be joined between the State and corporation aforesaid, shall be tried by jury, and it shall be lawful for the Court aforesaid, to require the production of such of the books of the corporation as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the court aforesaid, shall be examinable in the Supreme Court of the State, and may there be reversed or affirmed according to usages of law; and it shall be the duty of the Governor to employ counsel in behalf of the State to prosecute such writ of *scire facias*.

General meeting of stockholders to be held annually, &c.

SEC. 24. That a general meeting of the stockholders of each branch shall be held annually, at such time as the directors of the bank shall direct, at which time elections for directors shall take place, to which meeting the directors of the preceding year shall exhibit an exact and particular statement of the state, condition, and affairs of said branch; and general meetings of the stockholders may be held at any other time when ordered by the board of directors of the branch.

Certificates of stock to issue. How transferred. Penalty for refusing examination of stock book.

SEC. 25. Certificates of stock shall be issued to stockholders, signed by the president and cashier of the proper branch, and may be transferred on the books of the branch, to be kept for that purpose, and not otherwise; in which case the old certificate shall be surrendered and new ones issued. No stock shall be transferred by any stockholder when any debt is due, or is then owing and to become due from such stockholder, but by the consent of the directors of the branch, and such stock books shall, at all reasonable times during the usual hours of transacting business, be kept open for the examination of any person having in his possession any note, bill, or obligation, on any branch, then due, and the payment of which shall be refused. And in case any officer having charge of such book shall refuse to permit such examination, he shall, for every such offense,

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forfeit the sum of fifty dollars, to be recovered in an action of debt by the person so refused.

Stock may be sold on execution.

SEC. 26. Stock shall be considered as personal property, and may be sold on execution and transferred on the books of the branch by the officer selling the same, but in all cases be subject to a lien in favor of the bank, for all debts *bona fide* due, or then owing or to become due, the same, from the owner.

Rules concerning voting for directors.

SEC. 27. After the first election, no stockholder who shall not have held his stock, for which he votes, for three calender months previous to the day of election, shall be entitled to vote; and the number of votes to which stockholders shall be entitled, in voting for directors, shall be in the proportion following, that is to say: for each and every share not exceeding fifty, one vote; for every five shares over fifty and up to one hundred, one vote; and for every ten shares over one hundred, one vote; stockholders may vote in person or by proxy; but stockholders who are not residents of the United States shall not be entitled to vote their stock.

President, &c., shall not vote as proxy, and shall not be eligible to a seat in the legislature.

SEC. 28. No president, cashier, clerk, or teller of said bank, or any branch thereof, shall be permitted to vote, at any election for directors, as the attorney, agent, or proxy of any stockholder. No president, cashier, or director of the bank, or president or cashier of either of the branches, shall, during the term of his office, be eligible to a seat in either branch of the General Assembly of this State.

Style of board of directors.

SEC. 29. There shall be a board of directors of the bank, which shall be styled the Board of Directors of the Bank of the State of Indiana. Said board shall annually, after its first organization, elect one of its members president, at such time and in such manner as shall be prescribed by by-law, who shall hold his office one year, and until his successor is elected and qualified. It shall be his duty to preside at all meetings of the board, to call special meetings thereof when he shall deem it necessary, and to transact all other business appertaining to his office, or required by this act or the by-laws of said bank. He shall receive an annual salary, to be allowed by the board of directors of said bank, not less than one thousand nor more than four thousand dollars, payable quarterly.

President, how elected.

Duty and salary of President.

Four directors to be elected by the General Assembly; their term of office.

SEC. 30. The General Assembly may, at its present session, elect four directors of said bank, two of whom may be chosen by the Senate, and two by the House of Representatives; the House of Representatives concurring in the election of those chosen by the Senate and the Senate concurring in the election of those chosen by

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the House of Representatives; but in case of a failure to elect by such concurrent vote after three trials, all said directors shall be elected by the joint vote of both houses. Said directors shall, at the first meeting of the board after their election, determine, by lot, which shall serve for two years, and which for four years, and thereafter, at each biennial session of the Legislature, two directors shall be chosen in like manner, or in such mode as may be otherwise provided by law, who shall hold their office for four years, and until their successors are elected and qualified. Such directors, or any one of them, may at any time be removed by joint resolution of the General Assembly. Their compensation shall be fixed by the board of directors; but the compensation of any member of the board shall not be increased during the term of his appointment.

Removable by joint resolution; their compensation fixed by board of directors.

Vacancies of State Director, how filled.

SEC. 31. Vacancies occurring in the office of any State director shall be filled by appointment, to be made by the Governor, until the same shall be filled by the General Assembly, as in this act is provided for the election of directors.

One director of bank elected annually by each branch.

SEC. 32. The board of directors of each branch shall annually, and as often as a vacancy may occur, elect one director for the bank, whose compensation shall be fixed by the branch directors, and paid by such branch.

Revenues to be received and paid out by the Bank.

SEC. 33. It shall be the duty of said branches to receive and pay out the revenues and funds of the State, under the direction and control of the Treasurer of State, whenever the Legislature may so direct.

Board of directors to appoint cashier, &c.

SEC. 34. The board of directors of the bank shall have power to appoint a cashier, and such other inferior officers and agents as may be necessary to carry on their business, to fix their term of office and compensation, and require such bond and security from them as they may from time to time deem expedient.

Power of the directors over the branches.

SEC. 35. The directors of the bank shall have power to limit and control the amount of discounts and loans of the branches, after they shall amount to one and a quarter the amount of the capital stock paid in, to settle and adjust the accounts and balances between them, and for good cause may suspend the operations of the same. They shall have power, and it shall be their duty, to regulate and equalize the State funds and public deposits that may be in bank, and may transfer the same from one branch to another, as circumstances may require; but they shall in no case withdraw any part of the capital stock of any branch, or any part of its local funds, without the consent of the board of directors of such branch, to be used in any other branches, except in cases

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requiring such branch to be closed, as herein provided for; and they shall have power to make and prescribe all necessary by-laws to carry the powers herein conferred into effect.

Examination of branches by directors of the bank.

SEC. 36. They shall have power to appoint one or more of their number to visit and inspect the condition and affairs of each branch, when and as often as to them shall seem necessary; and it shall be their duty to make such examination at least once in six months, and also at any other time when thereto required by the directors of any branch. No director shall be appointed by the bank to examine, visit, and inspect the condition and affairs of any branch from which he has received his appointment.

Powers in such examination.

SEC. 37. The person or persons so examining shall have power to examine on oath or affirmation, (which they are hereby authorized to administer,) all the officers, servants, or agents of any branch, or any other person, in relation to the affairs and condition of such branch; and they shall have power to examine all the books, papers, notes, bonds, and other evidences of debt, of any branch, to compare the books, funds, and property of said branch, with their returns and statements made thereof; to ascertain the amount of money and available funds on hand, and generally to make every other inquiry and examination necessary to ascertain the actual condition of such branch.

Directors of bank to require reports from branches.

SEC. 38. The board of directors of the bank shall have power to require of the board of directors of each branch, reports of their business and condition, as often as shall be expedient, and not less than once in each month.

Branches may be suspended by board of directors.

SEC. 39. They shall have power, whenever they shall ascertain in any manner that any branch is insolvent, or is mismanaging its affairs, whereby the interest of the other branches is endangered, or that a branch hath violated any of the provisions of this act, or any other act binding upon them, or that any branch hath neglected or refused to comply with any legal order or direction of the board of directors of the bank, and it is hereby made the duty of said board forthwith to suspend the business of such branch, and the power of the branch directors over the same; and if the interest of the State or the safety of the other branches requires it, to close up the affairs and business of said branch entirely; and to effect the same, they are hereby vested with power to appoint a receiver, or receivers, who shall, under their direction and control, collect and receive the rights, credits, and effects due such branch,

Directors to appoint a receiver to take charge of effects.

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and turn them into available funds; to settle, adjust, and compound the same; to settle, adjust, and pay off the debts due by such branch; and if any portion of the capital stock of such branch, or stock notes given therefor, shall be unpaid, to sue for and collect the same, as also all contributions required from stockholders, under the provisions of the ninetieth section of this act, or so much as shall be necessary to meet the demands against such branch.

Receiver's authority to act, &c.

SEC. 40. That a copy of such order suspending or closing any branch, and appointing a receiver or receivers, to take charge of the same, signed by the president and attested by the clerk of said board and the seal of said bank, shall be sufficient to authorize such receiver to seize and take charge of the same; and all officers, stockholders, servants and agents of such branch shall be required to obey and submit to the same, and in default may be indicted for misdemeanor, and fined and imprisoned at the discretion of the jury trying the same; and any person fraudulently holding or concealing any of the property or effects of such branch from such receiver shall, upon conviction thereof upon presentment or indictment, be fined in any sum not exceeding one thousand dollars, and confined at hard labor in the State prison for any term of time not less than one year nor more than ten years.

Debts of a failing branch, how paid

SEC. 41. It shall be the duty of the directors of the bank to provide for the payment of all the debts of a failing branch that shall remain due after all the property, real and personal, rights, credits and effects, and all the stock of such failing branch, and the contributions of its stockholders, shall have been first applied; and for that purpose they are hereby authorized to call on the other branches for their respective proportions, arranging the time of making such calls so that the whole amount of such debt shall be paid within one year after such failing branch shall have been suspended.

Branches reimbursed in payment to advances to failing branches.

SEC. 42. And if it shall so happen that the property, stock, contribution or effects of said failing branch shall not by that time have been turned into available means, the same shall be collected and distributed among the several branches, to meet the advances by them made to pay the debts of such failing branch.

Effects of failing branch after payment of debts; how disposed of.

SEC. 43. After payment of all demands against a failing branch, if any residue remains, it shall be paid to the stockholders in due proportion.

Order of suspension, and how made.

SEC. 44. Any order of the board of directors to suspend or close a bcanch, shall be carried by at least the

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votes of two-thirds of the members present at some meeting, to attend which all the members of the board shall have been notified; and the question shall be taken by ayes and noes, and the same recorded on the minutes of the board.

Regulations respecting suits, &c., against suspended branch.

SEC. 45. The order of the board of directors of the bank suspending any branch, shall likewise have the effect to suspend all suits, judgments, orders, decrees and executions, for any claim or demand which said branch should have paid; nor shall any suit be progressed in until the matter in controversy shall have been submitted to the board of directors of the bank, or the persons by them entrusted with the affairs of said branch; and if, on such submission, the justice of such claim shall not be admitted, and the same be agreed to be paid on the closing up of the affairs of said branch, the same may progress to judgment, but execution thereon, and all other executions or decrees, shall remain until one year from the time such branch was suspended.

Election of branch directors, &c.

SEC. 46. The directors of the bank shall have power to regulate the manner of holding elections for directors of the branches, and may, if necessary, change and fix the time of holding the same, of all which elections reasonable notice of time and place shall be given.

Order for new election; when to be made.

SEC. 47. And in case an election of directors should not be made on the day when the same should have been, the directors of the bank shall order a new election, and the directors for the time being shall continue to hold their offices until such election takes place and their successors are qualified.

Failure to elect directors of the bank no dissolution of the corporation.

SEC. 48. No failure on the part of the General Assembly, or of the branches, to elect directors of the bank, shall be considered a dissolution of this corporation, but the directors for the time being shall continue to hold and exercise their offices until their successors are chosen and qualified.

Dividends regulated.

SEC. 49. Said directors shall have power to regulate and control the dividends of profits so that the capital stock shall never be diminished, and to create and keep up a surplus fund that shall never be less than one-sixteenth of the capital stock in each branch.

Interest unpaid not to be included in dividends.

SEC. 50. In the calculation of the profits previous to a dividend, interest then unpaid, although due or accrued on debts owing to any branch, shall not be included.

Dividends, when declared.

SEC. 51. Dividends of profits shall be declared semi-annually.

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Branch may be closed after the first year, when not producing 6 per cent. per annum

SEC. 52. Said board of directors shall have power to close any branch which, after the first year, shall not yield a profit of six per cent. per annum upon the capital actually paid in, and the same may be proceeded in as in cases of insolvency, unless the discount shall have been limited and controlled by the directors of the Bank, so as to prevent said stock from yielding such profit.

Accounts to be kept with the branches.

SEC. 53. They shall cause to be opened and kept, by their clerks, accounts with each branch, showing the operations of each, and keeping constantly in view their business and condition, which shall be, at all reasonable times, open to the inspection of any stockholder, and of any person authorized by the Legislature to inspect the same.

Record of proceedings.

SEC. 54. They shall likewise keep a record of all their proceedings, in which all their orders, votes and resolutions shall be entered, with the ayes and noes on all questions, which shall be open to like inspection.

Salaries of president, &c., of bank apportioned among the branches.

SEC. 55. They shall apportion the salary of the president and all other officers, agents and directors of the bank, and all other general expenses, among the several branches, according to the amount of stock in each, and shall have power to demand and receive the same.

Stock subscription books to be provided and transfer of stock returned.

SEC. 56. It shall be the duty of the directors of the bank to keep and preserve the original books of subscription of stock, and to cause to be returned to them from each branch every six months a statement of all transfers of stock made the preceding six months.

Plates for bank.

SEC. 57. They shall also procure and take charge of the plates on which the paper of said bank shall be printed, and shall cause a sufficient amount thereof to be printed from time to time as occasion may require.

Bank paper to be delivered to the branches. What denomination.

SEC. 58. They shall deliver, on the order of the board of directors of each branch, an amount of such paper not exceeding twice the amount of the capital actually paid in at such branch, except when more shall be wanted to replace that which may have been worn out, defaced, or lost; in which case all so defaced shall be returned to said board of directors of the bank and destroyed; and they shall give no other or greater amount for paper lost than they shall have good reason to believe is actually lost by circulation or otherwise. No notes shall be issued of denominations between five and ten, or ten and twenty, or twenty and fifty, or fifty and one hundred dollars; nor shall more than one-sixth of the notes issued to any branch be of denominations less than five dollars, and no notes shall be issued of any denomination less than one dollar.

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Quorum.

SEC. 59. Five directors, with the president, shall be necessary to constitute a board for the transaction of business; but in case of sickness or absence of the president, his place may be supplied for the time being by any director chosen by the board.

Directors to report biennially to the Legislature.

SEC. 60. It shall be the duty of the board of directors, in the first week of each session of the Legislature, to make report to both Houses of the General Assembly, of the affairs and business of said bank, and of each branch thereof, setting forth in regard to each,

*First*—The amount of available funds on hand, designating each kind.

*Second*—The amount of notes discounted.

*Third*—The amount of bills of exchange.

*Fourth*—The amount and condition of the surplus fund.

*Fifth*—The amount of notes in circulation.

*Sixth*—The number of officers and servants, and the amount of compensation to each.

*Seventh*—The amount of rents paid, if any.

*Eighth*—The value of houses used for banking purposes.

*Ninth*—The value of other real estate, and whether the same has been regularly offered for sale, as by this act required.

*Tenth*—The amount of debts due to and from other banks.

*Eleventh*—All such other matters as shall by them be deemed material and important, or shall be required of them by the Legislature. A like report shall be furnished to the General Assembly by the board of directors of each branch; such report, made by the directors of each branch, shall contain such statement of the condition of the same, as aforesaid, as the same is found on the third Saturday of November, in such year, at two o'clock in the afternoon.

Branch directors shall report to the legislature annually.

Oath of office.

SEC. 61. The directors, and all other officers and agents of the bank, and of each branch, shall severally, before they enter upon the duties of their office, make oath or affirmation well and faithfully to discharge the duties of the same.

Election of branch directors.

SEC. 62. The stockholders of each branch shall, by ballot, annually elect not less than five nor more than ten directors for such branch, the number to be settled by the directors of the bank; and the directors of the bank shall appoint two directors for each branch; such branch directors shall hold their office for one year, and until their successors are chosen and qualified.



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President, cashier, &c., how chosen; vacancies in board, how filled.

SEC. 63. The said branch directors, at their first meeting after each election, shall choose one of their number to be president, and shall have power to appoint a cashier, and such other officers and agents as they may deem necessary, whose term of office and whose compensation, together with that of the president, shall be established by the directors. They shall also have power to fill all vacancies occurring in their own body, except in those appointed by the bank, which shall be filled by the directors of the bank.

No person chosen as director more than twice in three years.

SEC. 64. No director appointed by the directors of the bank shall be chosen more than twice in three years.

No compensation to branch director, except, &c.

SEC. 65. No branch director, except the president, shall receive compensation for his services, unless by vote of the stockholders.

Who may be branch director.

SEC. 66. No person shall be elected a director of a branch, by the stockholders, who shall be in arrear to such branch, nor unless such person shall be a citizen of the State and a stockholder, owning in his own right, and not in trust, at least five shares in such branch. But in case there should not be a sufficient number of stockholders owning five shares, to constitute the directory, they may be elected out of those having the highest number of shares.

Seat of director may be vacated.

SEC. 67. If, during his term of office, any director shall become in arrear, or fail in business, remove from the State, or cease to own the requisite amount of stock, or otherwise become disqualified, it shall be the duty of the said board of directors forthwith to vacate his seat, and appoint another in his place.

Persons ineligible for directors.

SEC. 68. No person shall be a director in more than one branch at the same time; nor shall two or more partners be at the same time directors of the same branch, or of the bank and a branch thereof; nor shall a director of any moneyed corporation, having power to discount and receive deposits, be a director of any branch.

Office of each branch to give security.

SEC. 69. The board of directors of each branch shall have power to require such security from their officers and agents for the performance of their duties as they may deem necessary.

Report to the directors of the bank, &c.

SEC. 70. It shall be their duty to make report of their business and condition of their branch to the board of directors of the bank, once in each month, and oftener, if thereto required by said board, setting forth all the particulars required in their reports to the Legislature, and shall also send copies of their monthly reports to each branch.

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Journal to be kept, to be open for inspection.

SEC. 71. The board of directors of each branch shall keep a book, or books, in which shall be entered and faithfully recorded a journal of all their proceedings, which book shall be open to the inspection of all the stockholders, at all regular meetings of the same, and also be open to the inspection of any three stockholders holding together, in their own right, twenty shares of stock, on application by them made to the president or cashier.

Elections.

SEC. 72. All elections by the several boards of directors shall be *viva voce* and recorded.

By-laws of the branches.

SEC. 73. The directors of each branch shall have power to make and prescribe such by-laws, rules, and regulations as they shall deem needful, touching,

*First*—The government of their respective branches, and the management and disposition of its stock, business, property, estate, and effects.

*Second*—The time, manner, and terms upon which discounts and deposits shall be made and received in and by the same.

*Third*—The duties and conduct of the officers, clerks, and servants employed by the same, and,

*Fourth*—All such matters as may appertain to the concerns of said branch; subject to the control of the directors of the bank in the cases, and according to the powers herein given to the directors of the said bank.

Rules to be observed by bank directors.

SEC. 74. In the management of their business the Board of Directors shall observe the following rules:

*First*—No branch shall loan money on the security of its own stock.

*Second*—No person shall be accommodated with a loan while in arrear for stock, for interest or for loans had either on his own account or as security for others, and then due, unless the sums so due be retained and first paid out of such loan.

*Third*—In the renewal of notes the securities shall never be lessened.

*Fourth*—No director shall be allowed to borrow out of bank on any other than the usual banking terms.

*Fifth*—The president, cashier, and directors for the time being of any branch or of the bank shall not be permitted to endorse for each other, nor shall they vote on questions in which they are interested.

*Sixth*—On all applications for loans of five hundred dollars or upwards there shall be five concurring votes out of seven, and so on in proportion if any greater or less number is present; and if any such application is granted, the ayes and noes shall be entered in the minutes of the board.

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*Seventh*—No corporation of any description shall, at any one time, be permitted to be indebted, at one branch, in a greater sum than five thousand dollars for moneys loaned, unless by permission of the board of directors of the bank.

*Eighth*—It shall be the duty of the board of directors of each branch, as often as once in three months, to cause a strict examination to be made of the accounts of the cashier, and a full and complete settlement thereof; and a full statement thereof shall be entered on the journals of the proceedings of said board.

*Ninth*—No person shall be entitled to receive any dividend of profits on stock owned, while indebted to said bank for any debt or demand then due and payable, but the same shall be placed to his credit, until such debt or demand is paid.

*Tenth*—Five members shall be necessary to constitute a board for the transaction of business.

Penalties for making false statements, entries, &c.

SEC. 75. Every officer, agent, or clerk of said bank or branches, who shall wilfully and knowingly subscribe or make false statements, or false entries in the books of such bank or any branch, or shall wilfully and knowingly subscribe or exhibit false papers with the intent to deceive any person authorized to examine or inquire as to the condition of said corporation, or shall wilfully and knowingly subscribe or make false reports, shall be deemed guilty of felony, and shall be subjected to imprisonment at hard labor in the state prison for such term of years as the jury trying the case may think proper; and likewise any commissioner or examiner wilfully and knowingly subscribing or making any false reports, shall be deemed guilty of felony, and subjected to like penalties.

Penalties for embezzling.

SEC. 76. Any officer, agent, or clerk employed in said bank or any branch, who shall embezzel or appropriate the property or funds of said branch, with the intent to cheat and defraud the same, shall be deemed guilty of felony, and punished in like manner.

Branches empowered to open books for the transfer of stock in any of the cities of the United States.

SEC. 77. That the president and directors of the said bank may empower any of the branches, at their own expense, to open books for the transfer of their stock in any of the cities of the United States; and any such branch may authorize transfers of any portion of its stock, without lien or restriction, on which the State has no lien, on said books; which books shall be kept open for public inspection, conformably to the provisions of the 25th section of this act, and such transfers shall be regularly certified to the bank.

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Branches authorized to contract with officers appointed by the State for the receipt and disbursement of any of the deposits of public funds by the State, &c.

SEC. 78. That any branch or branches shall be authorized to contract with such board and officers as the State may empower, for the receipt and disbursement of any deposit of public funds by the State, and for the interest to be paid thereon, subject to the approval of the board of directors of the bank.

Capital stock divided into shares $50 each. No branch to be organized until $100,000 is subscribed. Duty of commissioner in regard to giving notice in newspapers and opening books for subscription.

SEC. 79. The capital stock of said bank and branches shall be divided into shares of fifty dollars each. No branch shall be organized until capital stock to the amount of one hundred thousand dollars shall be subscribed therefor, and the commissioners hereinbefore appointed, after giving at least thirty days' notice by publication in three or more newspapers published in the city of Indianapolis, and at least twenty days notice in three or more newspapers published in each bank district, or as many as may be published in any district where there are not three published, shall cause books to be opened by the sub-commissioners to be appointed for that purpose, for the subscription of the requisite amount of stock, at such places within the districts aforesaid as shall have been designated for the location of branches; which books shall be opened between the hours of 9 and 12 A. M. on the days and at the place specified in such notice, and if the requisite amount of stock shall not sooner be subscribed, said books may be kept open between the same hours each day, for the space of thirty days. If more than the requisite amount of stock shall be subscribed while the books are open for any branch, the excess shall be taken first from such as reside out of the State, next from corporations; and should there still be an excess, the same shall be taken in proportion from subscriptions over one thousand dollars, until all are reduced to that amount, and then from all equally.

Duty of sub-commissioner in regard to subscription of stock. Commissioner to notify stockholder when the first payment on their stock is to be made, &c.

SEC. 80. If a sufficient amount of stock shall be subscribed, by responsible persons, at any branch, it shall be the duty of the sub-commissioners to notify the commissioners thereof, who shall give notice to the subscribers of the time when the first payment on their stock shall be made, which notice shall be by publication in one or more newspapers, published in the proper bank district, sixty days before such payment is to be made; and they shall also give notice, in like manner, that an election will be held on the day succeeding that appointed for the payment of such installment, between the hours of 10 A. M., and 2 o'clock, P. M., at some specified place at the point where such branch is to be located, for the election of five directors on the part of the stockholders of such branch. At such time and

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place, the stockholders present shall appoint two suitable persons, who are not stockholders, to act as judges, and one to act as clerk, who shall, after being duly sworn faithfully to perform their duties, receive the ballots for directors, and certify that those receiving a majority of the votes cast were duly elected, and the directors so elected shall constitute the board of directors of such branch, for the purposes of its organization, and until the board of directors of the Bank of the State of Indiana shall be organized, and appoint directors on the part of said board, and the directors so appointed shall then be added to such branch board.

Amount of first installment on each share of stock, and duty of sub-commissioner in regard thereto.

SEC. 81. Such first installment shall be two dollars on each share of stock subscribed, and shall be paid to the sub-commissioners, by whom the books were opened, and who shall attend for that purpose, and in case of the failure of any subscriber to pay such first installment, the sub-commissioner shall strike his name from the books, and immediately re-open said books to receive subscriptions, to make up the deficiency from any persons who will pay such installment. As soon as a branch is organized, said sub-commissioners shall pay over thereto all the money received from such subscriptions; and all books and papers appertaining thereto, which, with the returns of the election for directors, and the certificates thereof, shall be entered or copied into the record books containing the proceedings of the board of directors, which entries shall be *prima facie* evidence of the fact therein stated. If any sub-commissioner shall, from any cause, fail to perform any of the duties required of him, the same may be performed by any other person appointed by the commissioners to supply his place. The residue of said stock shall be paid in such installments as the board of directors of the proper branch shall require; but such installments shall be so graduated that not less than one hundred thousand dollars shall be required to be paid into each branch on or before the first day of January, 1857.

Residue of stock paid, on what installment.

Board of directors to meet as soon as convenient after election. Duties they have to perform at their first meeting.

SEC. 82. The board of directors of each branch shall meet as soon as conveniently may be after their election, and after being duly sworn to support the constitution and laws of the State of Indiana, and faithfully and honestly to perform the duties of their office, shall proceed to elect the proper officers of such branch, and also one of their number as a member of the board of directors of the Bank of the State of Indiana; and when not less than ten branches have thus organized, the members elected to the board of directors of the bank shall meet at the city of Indianapolis, at such time as shall be

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agreed upon, and organize said board. If any members of said board have then been elected by the Legislature, they shall be added thereto; and whenever, from time to time, members of said board shall be elected by the Legislature, or by branches that may be subsequently organized, such members shall be admitted to their seat at said board.

When board of directors organized, commissioner to deliver to them all books, &c., in their possession appertaining to said bank. Duty of board of directors.

SEC. 83. When not less than ten members of the board of directors of the Bank of the State of Indiana shall meet as aforesaid, and shall have been duly sworn to support the constitution and laws of the United States, and of the State of Indiana, and faithfully and honestly to perform the duties of their office, the commissioners shall deliver to them all the books, papers, and property in their possession, appertaining to said bank, together with a full report of all their proceedings in the premises, which report shall be entered on the record of said board, and when so entered, such record shall be *prima facie* evidence of the contents thereof, said board shall proceed to elect their proper officers, and when thus organized, said board shall cause a written statement of all the proceedings in the organization of said bank and of each branch, to be made and filed in the office of the Secretary of State; which statement shall be accompanied by the affidavits of the president and cashier, that to the best of their knowledge and belief said statement is correct, and that said bank and branches have been organized in good faith, and with the intent to carry out the objects of its charter fairly and honestly; and thereupon said bank shall be duly organized for all the purposes contemplated by this act, except that it shall issue no bills or notes intended to circulate as currency until after the first day of January, 1857, and no such bills or notes shall then be issued to any branch until at least fifty thousand dollars shall have been paid into such branch upon the subscriptions for its stock.

Board of directors of the Bank of the State of Indiana authorized to increase capital stock of the branches. Capital of the bank and all its branches not to exceed $6,000,000

SEC. 84. The board of directors of the Bank of the State of Indiana is authorized to increase the capital stock of any of the branches, by empowering them to receive additional subscriptions thereto, to such an amount as can be profitably employed, but the aggegate capital of the bank and all its branches shall not exceed six millions of dollars.

Subscriber failing to pay first or any subsequent installment, how proceeded against.

SEC. 85. Should any subscriber for stock in any of the branches fail to make payment of the first or any subsequent installment, the party failing shall forfeit the first installment, to be recovered by said bank in an action at law; and in case of the failure to pay any

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subsequent installment, the board of directors of the proper branch may sell and transfer any such share or shares of stock at public auction, after ten days' notice, in writing, put up at the door of such branch bank, or so much thereof as may be necessary to pay all the dues of the failing party, and if the same cannot be sold for sufficient to pay all the installments due, the same shall be forfeited and become the property of the proper branch; and whenever any stockholder shall be indebted to any branch, and such branch shall hold a lien upon his stock to secure such indebtedness, if by reason of insolvency or other cause, he shall be unable to pay such indebtedness, such branch shall have power to purchase and hold so much of such stock as may be necessary to discharge such lien.

Discounts not to exceed their deposits and two and one-half the capital stock actually paid in.

SEC. 86. The board of directors of the Bank of the State of Indiana may, from time to time, authorize the several branches, or any of them, to extend their discounts to an amount the average of which, for each fiscal year, shall not exceed their deposits and two and a half times the capital stock actually paid in, but never shall exceed that proportion, and such discounts shall never exceed three times the amount of the capital actually paid in and the amount of deposits, the power being still reserved by the board of directors of the bank to restrict the branches in their discounts to once and a quarter the amount of capital paid in at its discretion; and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their individual and private capacities, in an action of debt against them, or any of them, in any court competent to try the same, by any of the creditors of said bank, or the bank itself, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said bank, or the lands, tenements, goods, chattels, moneys, or effects of the same, from being also liable for and chargeable with such excess. And any director or directors who may be absent when such excess is created or contracted, or who may have dissented from the resolution or act, whereby the same was created or contracted, may respectively exonerate themselves from being so liable, by causing or requesting, in writing, at the time his or their dissent, to be entered on the minutes of the board, and by forthwith giving notice of his or their absence or dissent, to the Governor of the State, and to the stockholders, by giving notice thereof in some newspaper published near said bank or branch.

Individual liability of directors in case of excess.

Directors absent or dissenting may be exonerated from liability by giving notice.

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Absent directors failing to give notice deemed liable.

SEC. 87. Every director not present at the meeting, when such excess shall be created or contracted, shall, nevertheless, be deemed to have been concerned therein, if the same shall appear on the books of the board, and he remain a director for six months thereafter, and does not within that time give notice of the same, as required in the preceding section.

Insolvency, when deemed fraudulent. Presumption of fraud, how repelled.

SEC. 88. The insolvency of said bank or any branch shall be deemed fraudulent, unless its affairs shall appear, upon investigation, to have been fairly and legally administered, and generally with the same care and diligence that agents receiving compensation for their services, are bound by law to observe; and it shall be incumbent on the directors and stockholders of the bank, or any branch, should the same become insolvent, to repel by proof the presumption of fraud.

Liability of president and directors, in case of fraudulent insolvency.

SEC. 89. In case of the fraudulent insolvency of said bank, or any branch, the president and directors of said bank or branch respectively, by whose acts or omissions the insolvency was wholly or in part occasioned, and whether then in office or not, shall each be liable; in the first instance, to the creditors and stockholders of the said bank or branch, or any or either of them, for his proportional share for their respective losses; the proportion to be ascertained by dividing the whole loss among the whole number of directors liable; and if any such president or director shall be unable, by reason of being insolvent, or for any other cause, to pay his proportional part of such loss, then the residue of said loss shall be borne and paid in equal parts by the remaining directors liable as aforesaid, until the whole loss shall be reimbursed, or the whole property, rights, credits, and effects of each of said directors shall have been exhausted toward the payment of such loss; but this section shall not be construed to diminish the liability of directors as before declared.

Moneys due to creditors in case of insolvency, how paid.

SEC. 90. If the moneys remaining due to the creditors of said bank or any branch whose insolvency shall be adjudged fraudulent, after distribution of its effects, and after the property, rights, credits, and effects of the president and directors of such insolvent bank or branch shall have been exhausted, shall not be paid by the stockholders, the deficiency shall be made good by the contributions of the stockholders of the branch becoming insolvent. The whole amount of the deficiency shall be assessed on the whole number of shares of the capital stock of said branch, and the sum necessary to be paid on each share shall then be ascertained, and each stockholder shall be liable for the sum assessed on

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the number of shares held by him not exceeding the nominal amount of such shares, in addition to the sums paid, or which he may be liable to pay on account of those shares; but, before such contribution shall be required, or assessment made on any shares where the whole stock had been paid, the installments unpaid on any shares shall be required to be paid up, and the estimates of the deficiency made accordingly.

How alterations of this charter are to be made.

SEC. 91. That it shall be lawful for the General Assembly, (by and with the consent of the president and directors of the bank, and of the president and directors of each branch, and not otherwise,) to make such amendments and alterations in this charter as may be found expedient: *Provided*, That said bank or any of its branches, shall not be authorized by any such amendment to suspend or refuse the payment of specie for its notes, bills, or obligations, or for any moneys received upon deposit, and that no such amendment shall be made, the faith of the State is hereby pledged to the creditors of said bank and branches: *And provided further*, That the State reserves the right to authorize the establishment of additional bank districts and branches with the consent of the boards of directors of two-thirds the branches then organized.

Proviso.

Not lawful for said bank, after the expiration of 20 years from its organization, to discount, loan money, &c.

SEC. 92. It shall not be lawful for the said bank, after the expiration of twenty years from its organization, to discount, loan money, or to do any other banking business; and all the powers herein conferred shall cease, except those incidental and necessary to close up its business, for which purposes only, its organization may be continued for any period of time not more than three years thereafter.

Declared public act.

SEC. 93. This Act shall be taken and received in all courts, and by all judges, magistrates, and other persons as a public act; and all printed copies of the same which shall be printed by or under the authority of the General Assembly shall be admitted as good evidence thereof, without any other proof whatever.

Expenses incurred in carrying into effect the provisions of this act, by whom paid.

SEC. 94. All expenses incurred in carrying into effect the provisions of this act shall be paid by said bank. The board of directors, when organized, shall make reasonable allowances for the services of the commissioners and other agents employed, and may require each branch to contribute a rateable proportion for the payment of all such expenses.

Emergency.

SEC. 95. Inasmuch as it is desirable that the commissioners appointed by this act shall be qualified and perform their duties, without delay, it is declared that an emergency exists in this case, and this act shall be in

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force and take effect from and after its publication in one or more newspapers published in the city of Indianapolis.

Passed the Senate, March 3d, 1855, the Governor's objections to the contrary, notwithstanding. SOLON TURMAN, *Secretary of the Senate.*

Passed the House, March 3d, 1855, the Governor's objection to the contrary, notwithstanding. JNO. LEVERING, *Clerk.*
By A. E. JONES, *Assistant.*

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## CHAPTER CXII.

AN ACT for the relief of William, Mary, Jane, Nancy, and Eliza McConahay, stepchildren of Jonas B. Wood, of Daviess county, and releasing to them certain real and personal property which escheated to the State.

[APPROVED MARCH 5, 1855.]

WHEREAS, It is represented to this General Assembly, that Jonas B. Wood, late of Daviess county, in said State, in the year 184—, intermarried with Mary McConahay, a widow, who had five children by her previous marriage, and that the said Mary McConahay, at the time of her intermarriage with the said Jonas B. Wood, was the owner of personal property of the value of six hundred dollars, which was reduced to possession by the said Jonas B. Wood;

AND WHEREAS, It is further represented, that the said Jonas B. Wood, after the death of his said wife, departed this life in the year 185—, leaving no heirs at law surviving him;

AND WHEREAS, It is further represented, that after the settlement of the estate of the said Jonas B. Wood, one hundred and forty-two dollars and ten cents remained in the hands of his administrator, and was by him paid into the State Treasury, and that the said Jonas B. Wood, in his lifetime, and at the time of his death, was the owner in fee of the following tracts or parcels of land, situate in Daviess county, Indiana, viz: The west half of the southeast quarter of section two, and the east half of the south quarter of section two, and the southeast quarter of the northwest quarter of section number eleven, township four north, of range six west;

AND WHEREAS, The said Jonas B. Wood was, at the time of and previous to his death, desirous that all his estate, both real and personal, should descend and be

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confirmed to the children of his said wife, to wit: William McConahay, Mary McConahay, Jane McConahay, Nancy McConahay, and Eliza McConahay; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the title to said tracts or parcels of land above described, be and is hereby conveyed, confirmed to, and vested in the said William McConahay, Mary McConahay, Jane McConahay, Nancy McConahay, and Eliza McConahay, and their heirs and assigns forever; and all the title and interest of the said State of Indiana, in and to the said lands, is hereby relinquished to the said William McConahay, Mary McConahay, Jane McConahay, Nancy McConahay, and Eliza McConahay, and their heirs and assigns forever.

SEC. 2. *Be it further enacted*, That the said William McConahay, Mary McConahay, Jane McConahay, Nancy McConahay, and Eliza McConahay, are hereby authorized to receive from the Treasurer of State the sum of one hundred and forty-two dollars and ten cents, the amount paid into the State Treasury by the administrator of the estate of the said Jonas B. Wood, deceased, and it is hereby made the duty of the Treasurer of State to pay the same.

SEC. 3. This act to be in force and take effect from and after its publication in the Indiana State Journal and Indiana State Sentinel.

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## CHAPTER CXIII.

AN ACT to amend the second section of an act entitled "An act to incorporate the Ward Cotton Mill," approved February 15th, 1848, and increasing the Capital Stock thereof.

[APPROVED FEBRUARY 28, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the second section of an act entitled "An act to incorporate the Ward Cotton Mill," approved February 15th, 1848, which is in the words following, to wit: "*Be it further enacted*, That the capital stock of said corporation shall not exceed five hundred thousand dollars; and the said corporation may be seized and possessed of such real estate as may be

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necessary and convenient for the purposes aforesaid, not exceeding the value of fifty thousand dollars, exclusive of buildings and improvements that may be made therein by the corporation," be and the same is hereby amended so as to read as follows, to wit: Sec. 2. The capital stock of said corporation shall not exceed seven hundred thousand dollars, and the said corporation may be seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of fifty thousand dollars, exclusive of buildings and improvements that may be made thereon by said corporation: *Provided*, that nothing in this act shall be construed to confer upon said corporation any greater corporate powers or privileges than are expressly conferred; but said corporation shall hereafter possess the powers and privileges conferred by said original act and this amendment thereto, and shall henceforth be subject to the duties and requisitions in said original act set forth.

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## CHAPTER CXIV.

**AN ACT to amend sections seventeen and a part of section eighteen of an act entitled "An act to incorporate the Lagro, Marion, and Jonesboro Plank Road Company," approved January 16th, 1849.**

[APPROVED MARCH 3, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section seventeen of said act, which reads as follows: "Said company shall commence said road within one year, and complete the same within ten years from the passage of this act; and if said road, after its completion, or the completion of any part thereof, shall be allowed to become out of repair, and remain so, and be impassable for one year, unless when undergoing repair, said company may be proceeded against by *quo waranto* as for a violation of this charter, and if said road is suffered to be out of repair to the hindrance or delay of travelers for an unreasonable time, the said company shall have no right to collect tolls during said time, be amended to read as follows: *Provided, however*, That should the said company fail to complete their said road within the time required by the act to which this is amendatory, they

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shall not, on account of such failure, forfeit their right to any portion or part that may be completed; but shall be authorized to erect toll gates, demand and receive tolls on and for the use of said road so partly finished, as fully as if the whole had been completed within the time by the aforesaid act required.

SEC. 2. That that part of section eighteen of said act that reads as follows: "Whenever five miles of said road shall be completed, a gate may be erected thereon, and so on for every additional five miles, until the whole is completed. After said road shall be completed said company may erect and maintain toll gates at such points and at such distances from each other as they may deem proper," be amended to read as follows: Whenever five miles of said road shall be completed, gates may be erected thereon and maintained at such points and at such distances from each other as the company may think proper, and may demand and receive tolls at such gates that shall not exceed the following rates for every ten miles distance traveled on said road, and in proportion for any greater or less distance.

SEC. 3. Whereas, the interests of said company require the changes in the management of said road authorized by this act before it can take effect by ordinary publication, therefore it is hereby declared that an emergency exists requiring the enactment hereby made, and that this act shall be in force from and after its passage.

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## CHAPTER CXV.

AN ACT to amend an act entitled "An act to incorporate the Indiana Cotton Mills," approved February 15th, 1848.

[APPROVED JANUARY 25, 1855.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the second section of an act entitled "An act to incorporate the Indiana Cotton Mills," approved February 15th, 1848, which is in the following words: "*Be it further enacted*, That the capital stock of said corporation shall not exceed five hundred thousand dollars, and that the said corporation may be lawfully seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of fifty thousand dollars, exclusive of buildings and improvements that may

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be made by the corporation," be and the same is hereby amended to read as follows: Sec. 2. That the capital stock of said corporation shall not exceed the sum of seven hundred and fifty thousand dollars, and that the said corporation may be lawfully seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of one hundred thousand dollars, exclusive of buildings and improvements that may be made by the corporation. That the stockholders of said corporation may designate in their by-laws the times and places where the directors shall hold their meetings, whether in or out of this State. That nothing in this act shall be construed to confer upon said corporation any greater corporate authority or privileges, except such as are by this act expressly conferred; but the said corporation shall hereafter possess the powers and privileges conferred by said original act and this amendment thereto, and shall henceforth be subject to the duties and requisitions in said original act set forth.

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## CHAPTER CXVI.

AN ACT for the relief of Henry Wells, Treasurer of the County of Lake.

[APPROVED MARCH 2, 1855.]

WHEREAS, It has been shown to the General Assembly that on the 18th day of June, 1854, the treasurer's office of Lake county was feloneously entered, the safe broken open, and upwards of thirty-five hundred dollars stolen therefrom, including nine hundred and fifty dollars collected by the said treasurer for the swamp land fund; and whereas, it has been shown that such loss was not occasioned by any negligence or want of care of the said treasurer, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Henry Wells, Treasurer, of the county of Lake, be and he is hereby released and discharged from the payment of the said sum of nine hundred and fifty dollars received by him from the sale of swamp lands, and feloniously abstracted as aforesaid, while in his possession.

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# JOINT RESOLUTIONS

OF THE

# GENERAL ASSEMBLY OF INDIANA.

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## CHAPTER I.

A JOINT RESOLUTION directing the Attorney General to investigate a claim of Moorehead, Hall & Co., and H. K. Wright and Jacob Barcus, against the State, and report the testimony in relation thereto to the next General Assembly.

[APPROVED MARCH 5, 1855.]

WHEREAS, Henry Hall, of the firm of Moorehead, Hall & Co., on behalf of said firm, and as the settling partner thereof, has memorialized the General Assembly at its present session, praying for the adjustment of a claim in the nature of a debt against the State of Indiana for work and labor done, and for goods and materials furnished by said firm in and about the construction of the Wabash and Erie canal, prior to the transfer thereof to the "Board of Trustees of the Wabash and Erie canal," under the law for the liquidation of the funded debt of the State of Indiana, of January 19th, A. D., 1846: AND WHEREAS, it is deemed impracticable to investigate said claim so as fairly to decide upon its merits through the means of the appropriate committees of the respective branches of the General Assembly, although it is believed that said claim ought to be investigated, and if just, paid; therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the Attorney General of this State be, and he is hereby directed to examine said claim, and to report the testimony relating thereto to the General Assembly of this State at the next ensuing session thereof.



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SEC. 2. *Be it further resolved*, That in the investigation of said claim the Attorney General cause to come before him, at such times and places as he may appoint, such witnesses as may be necessary to a just and fair examination of said claim, and that he reduce the testimony, or so much thereof as he may deem relevant, to writing, first requiring the witnesses to be sworn by some officer authorized by law to administer oaths: AND WHEREAS, Said claim, if just, was chargeable upon the Wabash and Erie Canal at and before the transfer thereof to said trustees, and, by the law, those for whose use the transfer of said canal was made, were required to assume all equities and claims against it, whereby the fund of said canal, in the hands of said trustees, may be affected by the investigation above authorized; therefore,

*Be it further resolved*, That at least twenty days' notice of the respective times and places of taking testimony relating to said claim be given, by the Attorney General, to the trustees of said canal, and also to the said claimants or their attorney. The said Henry Hall is hereby authorized to withdraw his said memorial and accompanying affidavit and exhibits from the files of the House of Representatives, for the purpose of filing them with the Attorney General; and, within a reasonable time after they shall be so filed, it shall be the duty of said officer to proceed to the investigation above required. All the expenses of said investigation shall be paid by the said claimants.

SEC. 3. And whereas, H. K. Wright and Jacob Barcus also have a claim against the State of Indiana for moneys due on contract for the construction of said canal prior to the transfer thereof to said board of trustees of said Wabash and Erie Canal: And whereas, there is the same difficulty in getting a full investigation of said claim before the appropriate committees of the respective branches of the Legislature that there is in the claim above provided for, although your committee are of the opinion that said claim should be investigated and, if just, paid: And whereas, such claim, if found just, is also chargeable upon the said canal, therefore,

SEC. 4. *Be it further resolved*, That the said Attorney General be, and he is hereby directed to investigate the said claim of the said Wright and Barcus, and to report the testimony relative thereto to the ensuing session of the General Assembly in like manner provided for in the case of Moorehead, Hall & Co.

SEC. 5. *Be it further resolved*, that the said Attor-

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ney General be, and he is hereby directed to give the same notice and to conduct his examination of the said claim of said Wright and Barcus and make his report thereof in the same manner as is provided in the 2d and 3 l sections of these resolutions, and that all expenses of said investigation shall be paid by the said Wright and Barcus.

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## CHAPTER II.

A JOINT RESOLUTION authorizing the Auditor of State to burn cancelled State Stock paper in certain cases therein specified, and specifying who shall pay for such services.

[APPROVED MARCH 5, 1855.]

*Be it resolved by the General Assembly of the State of Indiana*, That the Auditor of State be required to have the circulating notes of the various free banks heretofore cancelled by his predecessor and now remaining in the office of the Auditor of State, assorted and counted, and the amount of the same certified, and that he be authorized to burn the same upon the requirment of one of the officers of the bank, or its agent, in the presence of two disinterested persons, and that he be allowed to collect a reasonable compensation therefor, *pro rata*, from the several banks.

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## CHAPTER III.

A JOINT RESOLUTION in relation to the 3 per cent. fund, and appointing the Governor to settle the same.

[APPROVED MARCH 5, 1855.]

WHEREAS, There is an unsettled controversy between the General Government and the State of Indiana upon the three per cent fund: AND WHEREAS, there is due the State more than one hundred thousand dollars of said fund, which belongs to the citizens of the several counties of the State, under and by virtue of the several acts of the Legislature, for the improve-

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ment of highways, bridges, and other local county improvements: AND WHEREAS, the General Government retains the same by virtue of a claim upon the State, for certain interest upon stocks, which have not been surrendered under the acts of 1846 and 1847, and which the General Government now holds: AND WHEREAS, We regard the State as a mere trustee of said three per cent. fund, to be applied as the original compact between the General Government and the State, directed; and that the withholding said fund is a violation of that solemn compact; therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That His Excellency, the Governor, be, and is hereby authorized to settle this controversy between the General Government and the State, and report his acts in the premises to the next General Assembly.

---

## CHAPTER IV.

A JOINT RESOLUTION to distribute to Allen county fifty copies Revised Statutes.

[APPROVED MARCH 3, 1855.]

*Be it resolved by the General Assembly of the State of Indiana*, That fifty copies of the Revised Statutes of the State of Indiana be distributed to the county of Allen.

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## CHAPTER V.

A JOINT RESOLUTION in relation to the election of United States Senators.

[APPROVED FEBRUARY 23, 1855.]

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be instructed and our Representatives requested to use their influence to amend section 3 of article 1 of the Constitution of the United States so that the United States Senators of each State of these United States shall be elected by the

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qualified voters of each State at their usual annual elections thereof.

*Be it further resolved*, That His Excellency, the Governor, be requested to transmit a copy of the foregoing joint resolution to each of our Senators and Representatives in Congress.

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## CHAPTER VI.

A JOINT RESOLUTION asking Congress to patent to the State of Indiana all lands purchased of the United States after the passage of the act of Congress donating the swamp and overflowed lands to the State of Indiana, and afterwards returned as swamp lands.

[APPROVED FEBRUARY 20, 1855.]

WHEREAS, Many of the citizens of the State of Indiana, having purchased lands of the United States after the act of Congress donating the swamp lands to said State, and which were approved to the State as swamp lands: AND WHEREAS, the State has used every effort, and conformed to the various rules and prescriptions laid down by the commissioners of the General Land Office, as is shown by the Auditor's report, one of which was instructing the Auditor to notify all such persons that the land so purchased had been returned swamp lands, and that the title by said act of Congress was vested in the State of Indiana; therefore, to obtain a title, it was necesary for such purchasers to return their certificates of purchase, and assign all their right, title, and interest to the State of Indiana: AND WHEREAS, many of the citizens so purchasing said lands of the United States—which were afterwards returned swamp lands, in conformity with said notice—returned their certificates of purchase, and assigned all their right, title, and interest to the said State of Indiana; yet the Commissioner of the General Land Office utterly refuses to patent said lands to the State of Indiana; therefore the citizens so purchasing said lands are, between the General Government and the State of Indiana, left without a shadow of title; therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators be instructed and our Representatives requested to use their influence to pro-

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cure the passage of a law patenting said lands to the State of Indiana at as early a day as possible.

*And be it further resolved*, That the Governor be requested to transmit to each of our Senators and Representatives in Congress a copy of this resolution.

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## CHAPTER VII.

A JOINT RESOLUTION against the renewal of a certain Patent.

[APPROVED FEBRUARY 7, 1855.]

*Resolved by the Senate and House of Representatives of the State of Indiana in General Assembly*, That our Senators be instructed and our Representatives requested to use all honorable means to prevent any renewal by Congress of the patents formerly granted to Cyrus H. McCormick, Moore & Hascall, and Obed Hussey, for Reaping and Mowing machines, as such extension would operate to the great detriment of the agricultural interests of the State.

*Resolved*, That the Governor be requested to forward to each of our Senators and Representatives in Congress a copy of the foregoing resolutions.

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## CHAPTER VIII.

A JOINT RESOLUTION upon the subject of lands and increase of pensions for military services.

[APPROVED FEBRUARY 20, 1855.]

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be instructed and our Representatives requested to use their influence to procure the passage of an act granting bounty land to officers and soldiers engaged in the war declared in 1812, against Great Britain, and further, to allow increase of pensions to invalid pensioners of said war; and also to grant pensions to the widows of officers, soldiers, and others who were engaged therein; and in like

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manner, grant land and pensions to all officers, soldiers, and engineering officers, and to the widows of all such as have been engaged in any of the wars of the United States, allowing to each, one hundred and sixty acres or more, in proportion to the length of time served, and according to the amount that may have heretofore been received under other acts of Congress for such services, and that said Senators and Representatives use their influence to have engrafted into any bill that may be passed by Congress, a provision allowing to Revolutionary soldiers, and widows of officers and soldiers of the Revolutionary war, back pay, equal in amount per month to any increase pay per month that may be allowed to officers and soldiers of any of the wars of the United States.

*Be it further resolved*, That His Excellency, the Governor, be requested to transmit, immediately, copies of this joint resolution to each of our Senators and Representatives in Congress.

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STATE OF INDIANA,
OFFICE OF SECRETARY OF STATE,

I hereby certify that I have compared the forgoing printed with the enrolled acts and joint resolutions from which they were taken, on file in my office, and have found them correctly printed. A few words designated [thus,] were inserted by me.

*In Testimony Whereof*, I have hereunto set my hand and affixed the Seal of State, at the city of Indianapolis, this fourteenth day of May, A. D. 1855.

[SEAL.]

ERASMUS B. COLLINS,
*Secretary of State.*

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# EXTRACTS

FROM THE

# REPORT OF THE AUDITOR OF STATE,

FOR THE YEAR ENDING OCTOBER 31, 1854.

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OFFICE OF STATE AUDITOR,
Indianapolis, Nov. 1, 1854.

*To the General Assembly:*

In compliance with the law requiring the Auditor of State "to exhibit to the General Assembly, at its biennial meeting, a complete statement of the revenues, taxables, funds, resources, incomes and property of the State, known to his office, and of the public revenues and expenditures of the preceding fiscal year, with a detailed estimate of the expenditures to be defrayed from the Treasury for the ensuing two years," &c., the following statement is respectfully submitted, showing the operations of this department for the fiscal year ending October 31st, A. D. 1854, and the condition of the finances at said date.

The several items are set forth under the following heads:

I. *A general statement of the Receipts and Expenditures of the State during the fiscal year.*

II. *A statement of the several Appropriations, and of the amounts expended, balances unexpended, and appropriations overdrawn.*

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III. *The condition of the State Debt, foreign and domestic.*

IV. *The condition of the various Trust Funds, their receipts and expenditures, Loan accounts, and the appropriations for the Benevolent Institutions of the State.*

V. *Agricultural products in the State for the year ending* 1*st of January, A. D.* 1854.

VI. *The Common School Fund, its operations for the year ending March* 1, 1854, *and the distribution of the Fund at the State Treasury, under the Consolidation act.*

VII. *The Wabash and Erie Canal.*

VIII. *Indiana Swamp Lands.*

IX. *Showing a short historical sketch of the State of Indiana. The names of the county seats, and their course and distance from Indianapolis. Senators and Representatives in Congress from Indiana since its admission into the Union. Governors and Lieutenant Governors, Speakers of the House of Representatives, and other State Officers, from* 1816 *down to the year* 1854, *together with the Executive and Judicial Officers for the year A. D.* 1854, *and their salaries.*

X. *Free Banking operations.*

XI. *General Remarks, including the estimate of Expenditures for the two ensuing financial years, and other matters of interest to the State.*

XII. *Appendix, containing the usual Tables and Abstracts.*

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## NUMBER I.

*A GENERAL STATEMENT of the receipts and expenditures during the fiscal year, from November 1, A. D. 1853, to October 31, A. D. 1854.*

| | |
|---|---|
| Total receipts into the Treasury from all sources during the fiscal year | $2,094,818 03 |
| Add balance on hand, Nov. 1, 1853 | 514,357 90 |
| Makes grand total | $2,609,175 93 |
| Total amount of warrants paid at the State Treasury during the fiscal year, | $1,645,544 95 |
| Leaves balance on hand, Nov. 1, 1854, | $963,630 98 |

### GENERAL FUND.

*Receipts.*

| | | |
|---|---|---|
| From revenue, 1853 | $519,161 32 | |
| From revenue, 1852 | 75 52 | |
| From delinquent revenue, 1853 | 17,330 80 | |
| From delinquent revenue, 1852 | 26,945 55 | |
| From interest on State debt, | 667 04 | |
| From State Library | 11 00 | |
| | | $564,191 23 |
| From Treasury Fund | $339 92 | |
| From sale of Revised Statutes | 786 50 | |
| From sale of Laws | 58 00 | |
| From United States on account of Militia | 327 92 | |
| From sale of old State Prison | 1,500 00 | |
| | | 3,012 34 |
| From Insane Hospital | $16,947 38 | |
| From Deaf and Dumb Asylum | 727 29 | |
| From Blind Asylum | 8,624 15 | |
| | | 26,298 82 |

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| | | |
|---|---|---|
| From Free Banking..... | $ 221 25 | |
| From miscellaneous items... | 10 00 | |
| From McGinley warrants.... | 16,000 00 | |
| | | 16,231 25 |
| Total receipts of General Fund..... | | $609,733 64 |

*Disbursements.*

| | | |
|---|---|---|
| On account of Revenue refunded ..... | $3,979 14 | |
| On account of Treasury Fund, | 1 35 | |
| On account of Insane Hospital..... | 56,617 67 | |
| On account of Blind Asylum, | 33,599 03 | |
| On account of Deaf and Dumb Asylum ..... | 30,380 45 | |
| | | $124,577 64 |
| On account of Revised Statutes..... | $46 62 | |
| On account of State Prison.. | 9,512 97 | |
| On account of new S. Prison, | 5,384 50 | |
| On account of Judiciary.... | 16,154 26 | |
| On account of Probate Judges, | 50 00 | |
| On account of Executive Officers..... | 5,050 00 | |
| On account of Governor's House..... | 576 48 | |
| On account of State Library. | 1,750 26 | |
| On account of Governor's Circle ..... | 101 67 | |
| | | 38,626 76 |
| On account of equalization.. | $7 50 | |
| On account of State House.. | 1,013 82 | |
| On account of specific appropriations ..... | 645 50 | |
| On account of fuel and stationery..... | 3,240 38 | |
| On account of public printing, | 6,111 61 | |
| On account of militia..... | 418 09 | |
| On account of contingent fund, | 1,264 86 | |
| On account of Prosecuting Attorneys..... | 3,417 38 | |
| On account of Free Banking, | 1,371 25 | |
| | | 17,490 39 |

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| | | |
|---|---|---|
| On account of interest and exchange | $3,756 50 | |
| On account of Porter's Reports | 1,581 54 | |
| On account of attorney's fees, | 1,270 00 | |
| On account of colonization of negroes | 788 29 | |
| On account of expenses of Supreme Court | 981 25 | |
| On account of miscellaneous items | 1,437 01 | |
| | | 9,814 59 |
| On account of interest on State debt | 298,255 52 | |
| On account of salary of State Agent | 2,506 95 | |
| On account of expenses of Agency | 629 45 | |
| | | 301,391 92 |
| Total disbursements | | $491,901 30 |
| Add deficiency of last year | | 32,734 62 |
| Total | | $524,635 92 |
| Total receipts brought down | | $609,733 64 |
| Deduct total disbursements | | 523,198 91 |
| Balance on hand, Nov. 1, 1854 | | $86,534 73 |

TOWNSHIP LIBRARY FUND.

*Receipts.*

| | | |
|---|---|---|
| Amount on hand Nov. 1, 1853 | | $66,605 50 |
| Taxes collected 1853 | $97,160 44 | |
| Delinquent tax, A. D. 1853 | 3,835 82 | |
| Delinquent tax, A. D. 1852 | 3,717 31 | |
| | | 104,713 57 |
| Total | | $171,319 07 |

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*Disbursements.*

| | |
|---|---|
| Purchase of libraries and expenses | $151,787 07 |
| Balance on hand Nov. 1, 1854 | $19,532 00 |

UNIVERSITY FUND.

| | |
|---|---|
| Amount on hand Nov. 1, 1853 | $7,861 40 |

*Receipts.*

| | | |
|---|---|---|
| On account of principal loans refunded | $8,151 51 | |
| On account of interest collected, | 4,571 11 | |
| | | 12,722 62 |
| Total | | $20,584 02 |

*Disbursements.*

| | | |
|---|---|---|
| On account of principal reloaned | $16,338 00 | |
| On account of professors' salaries | 5,300 00 | |
| On account of incidental expenses | 814 64 | |
| On account of interest refunded, | 44 94 | |
| | | 22,497 58 |
| Deficiency, Nov. 1, 1854 | | $1,913 56 |

COMMON SCHOOL FUND.

*Receipts.*

| | | |
|---|---|---|
| On account of tax, A. D. 1853, | $230,037 41 | |
| On account of delinquent tax, 1853 | 6,506 13 | |
| On account of delinquent tax, 1852 | 9,334 19 | |
| On account of interest collected by county treasurers | 153,437 89 | |
| | | $399,315 62 |
| Total | | $399,315 62 |

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*Disbursements.*

| | | |
|---|---|---|
| On account of distribution of fund | $344,791 00 | |
| On account of expenses of fund, &c. | 3,874 78 | |
| On account of interest refunded, | 2,930 90 | |
| | | 351,596 68 |
| Balance on hand Nov. 1, A. D. 1854 | | $47,718 94 |

The following items comprise that portion of the "Common School Fund" which is received and disbursed through the Treasurer's Office:

SALINE FUND.

| | |
|---|---|
| Amount on hand Nov. 1, 1853 | $3,623 54 |

*Receipts.*

| | | |
|---|---|---|
| From loans of principal refunded, | $2,457 05 | |
| From interest on loan | 1,383 71 | |
| From damages on sales of land | 12 50 | |
| From costs of advertising | 2 00 | |
| | | 3,855 26 |
| Total | | $7,478 80 |

*Disbursements.*

| | | |
|---|---|---|
| On account of amount distributed to counties | $3,859 00 | |
| On account of expenses of fund, | 396 64 | |
| On account of interest refunded, | 36 75 | |
| | | $4,292 39 |
| Balance on hand Nov. 1, A. D. 1854 | | $3,186 41 |

BANK TAX FUND.

| | |
|---|---|
| Amount on hand Nov. 1, A. D. 1853 | $3,995 56 |

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*Receipts.*

| | | |
|---|---|---|
| Principal refunded, &c | $4,471 41 | |
| From interest received | 414 32 | |
| | | 4,885 73 |
| Total | | $8,881 29 |

*Disbursements.*

| | | |
|---|---|---|
| Account of distribution to counties, | $4,497 00 | |
| Account of expenses of fund | 177 30 | |
| | | 4,674 30 |
| Balance on hand Nov. 1, A. D. 1854 | | $4,206 99 |

CONGRESSIONAL TOWNSHIP FUND.

| | |
|---|---|
| Amount on hand Nov. 1, A. D. 1853 | $171 96 |

*Receipts.*

| | | |
|---|---|---|
| From principal refunded | $250 00 | |
| From interest collected | 77 23 | |
| | | 327 23 |
| Total | | $499 19 |

*Disbursements.*

| | | |
|---|---|---|
| On account of amount distributed, | $474 96 | |
| On account of interest refunded | 4 20 | |
| | | $479 16 |
| Balance on hand Nov. 1, 1854 | | $20 03 |

SURPLUS REVENUE FUND.

| | |
|---|---|
| Amount on hand Nov. 1, 1854 | $613 52 |

*Receipts.*

| | |
|---|---|
| From interest collected | 192 58 |
| Total | $806 10 |

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*Disbursements.*

| | |
|---|---|
| On account of distribution of fund | $613 51 |
| Balance on hand Nov. 1, A. D. 1854 | $192 59 |

COUNTY SEMINARY FUND.

| | |
|---|---|
| Amount on hand Nov. 1, A. D. 1853 | $445 40 |

No receipts or disbursements of this fund during the year.

There is a balance due from the State Treasury or General Fund, to the Common School Fund, in addition to the above, of the sum of $780,624 36, on account of redemption of five per cent. treasury notes. This item of the Common School Fund is unproductive, and will remain so until reimbursed by taxation.

MICHIGAN ROAD FUND.

| | |
|---|---|
| Amount received on sale of land | $137 83 |

No disbursements during the year.

SWAMP LAND FUND.

| | |
|---|---|
| Amount on hand Nov. 1, A. D. 1854 | $230,608 94 |

*Receipts.*

| | |
|---|---|
| On account of sales of lands during fiscal year | 385,892 32 |
| Total | $616,501 26 |

*Disbursements.*

| | |
|---|---|
| Amount of expenses and drainage | 217,669 65 |
| Balance on hand Nov. 1, A. D. 1854 | $398,831 61 |

THREE PER CENT. FUND.

| | |
|---|---|
| Amount on hand Nov. 1, A. D. 1853 | $321 81 |

No receipts during the year.



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*Disbursements.*

| | | |
|---|---|---|
| On account of distribution of fund..... | | 289 68 |
| Bal. on hand Nov. 1, A. D. 1854.... | | $32 13 |

STATE DEBT SINKING FUND.

| | | |
|---|---|---|
| Amount of Fund on hand Nov. 1, 1853.. | | $5,480 43 |

*Receipts.*

| | | |
|---|---|---|
| On account of tax A. D. 1853..... | $50,270 61 | |
| On account of delinquent tax 1853..... | 1,246 27 | |
| On account of dividends on stock..... | 843 65 | |
| | | 52,360 53 |
| Total ..... | | $57,840 96 |

*Disbursements.*

| | | |
|---|---|---|
| On account of purchase of 5 per cent. stocks..... | $40,000 00 | |
| On account of purchase of 2½ per cent. stocks..... | 33,920 00 | |
| On account of expense of Fund ..... | 99 15 | |
| | | 74,019 15 |
| Makes deficiency Nov. 1, 1854, of.... | | $16,178 19 |

WABASH AND ERIE CANAL.

| | | |
|---|---|---|
| Amount on hand Nov. 1, A. D. 1853... | | $223,594 47 |

*Receipts.*

| | | |
|---|---|---|
| On account of tolls and water rents..... | $187,150 50 | |
| On account of lands west of Tippecanoe ..... | 60,619 74 | |
| On account of lands in Vincennes district..... | 270,860 86 | |

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| | | |
|---|---|---|
| On account of interest on deposits | 2,050 00 | |
| | | 520,681 10 |
| Total | | $744,275 57 |

*Disbursements.*

| | | |
|---|---|---|
| On account general expenses | $18,174 78 | |
| On account ordinary repairs | 76,908 07 | |
| On account extraordinary repairs | 14,353 95 | |
| On account of bridges | 1,990 38 | |
| On account of superintendence | 7,843 10 | |
| On account of costs of collection | 8,344 94 | |
| For construction: | | |
| From Terre Haute to Point Commerce | 20,480 10 | |
| From Newberry to Maysville | 1,961 00 | |
| From Maysville to Petersburgh | 3,357 40 | |
| From Petersburgh to Evansville | 96,814 59 | |
| Damages and water power | 6,229 82 | |
| Expense of engineering | 5,468 09 | |
| Clinton drawbridge | 3,314 45 | |
| Expense land office at Logansport | 2,233 27 | |
| Expense land office at Washington | 1,768 55 | |
| Expense of office, house, and lot | 3,967 39 | |
| Interest and exchange | 52,514 60 | |
| | | 325,724 48 |
| Bal. on hand Nov. 1, A. D. 1854 | | $418,551 09 |

RECAPITULATION.

*Receipts.*

| | |
|---|---|
| On account of the general fund | $609,733 64 |
| On account of library fund | 104,713 57 |
| On account of University fund | 12,722 62 |
| On account of Common School fund | 399,315 62 |
| On account of Saline fund | 3,855 26 |

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| | |
|---|---|
| On account of Bank Tax fund | 4,885 73 |
| On account of Congressional Township fund | 327 23 |
| On account of Surplus Revenue fund | 192 58 |
| On account of Michigan Road fund | 137 83 |
| On account of Swamp Land fund | 385,892 32 |
| On account of State Debt Sinking fund | 52,360 53 |
| On acount of Wabash and Erie Canal | 520,681 10 |
| Total Receipts | $2,094,818 03 |
| Add bal. on hand Nov. 1, 1854 | 514,357 90 |
| Grand Total | $2,609,175 93 |

*Disbursements.*

| | |
|---|---|
| On account of general fund | $491,901 30 |
| On account of university fund | 22,497 58 |
| On account of common school fund | 351,596 68 |
| On account of saline fund | 4,292 39 |
| On account of bank tax fund | 4,674 30 |
| On account of congressional township fund | 479 16 |
| On account of surplus revenue fund | 613 51 |
| On account of swamp land fund | 217,669 65 |
| On account of three per cent. fund | 289 68 |
| On account of State debt sinking fund | 74,019 15 |
| On account of Wabash and Erie Canal, | 325,724 48 |
| On account of township library fund | 151,787 67 |
| Total | $1,645,544 95 |
| And which deducted from total receipts leaves balance on hand, as before stated | $963,630 98 |

## NUMBER XI.

### *GENERAL REMARKS.*

A glance at the statement of receipts and expenditures will show the balance in the treasury, at the close of the fiscal year, 1854, to have been the sum of $963,-

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630 98. Which balance belongs to the different funds, as follows:

| | |
|---|---|
| To Wabash and Erie Canal Fund | $418,551 09 |
| To Three per cent. Fund | 32 13 |
| To Saline Fund | 3,186 41 |
| To Bank Tax Fund | 4,206 99 |
| To Congressional Township Fund | 54 53 |
| To Swamp Land Fund | 298,831 61 |
| To Common School Fund | 55,162 82 |
| To Township Library Fund | 19,532 00 |
| To Surplus Revenue Fund | 192 59 |
| Total | $799,750 17 |

Which gives a balance on hand as applicable to general purposes, Oct. 31, 1854, the sum of $163,880 81.

This amount, after deducting deficiencies of appropriations for 1853 and 1854, according to Article 10 of the Constitution, properly belongs to the fund created by law for the gradual extinction of our public debt. The deficiencies for said years being about $120,000.

The following appropriations for the ensuing two years is believed to be necessary in order to carry on the State government:

*Ordinary Expenditures, Estimated for* 1855.

| | |
|---|---|
| On account of Legislature | $42,000 00 |
| On account of the Judiciary | 20,000 00 |
| On account of Prosecuting Attorneys | 3,300 00 |
| On account of Revised Statutes, due Ellis & Spann, printing for 1853 | 7,938 69 |
| On account of Supreme Court Reports | 2,000 00 |
| On account of Miscellaneous Account | 2,500 00 |
| On account of Public Printing and Binding | 15,000 00 |
| On account of Fuel and Stationery | 5,000 00 |
| On account of Governor's House | 600 00 |
| On account of State House | 1,000 00 |
| On account of State Prison | 10,000 00 |
| On account of Executive | 7,000 00 |
| On account of State Library, including salary of Librarian and purchase of books | 2,000 00 |
| On account of Contingent Fund | 1,500 00 |
| On account of Supreme Court | 1,000 00 |
| On account of Militia | 500 00 |
| On account of Attorney's fees | 1,200 00 |

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| | | |
|---|---|---|
| On account of same, to cover last year's expenses | | 1,200 00 |
| On account of Governor's Circle | | 200 00 |
| On account of Specific Appropriations | | 1,000 00 |
| Making for ordinary expenses, 1855 | | $123,938 69 |

*Extraordinary Expenditures for* 1855.

| | | |
|---|---|---|
| On account of interest on State Debt | $310,000 | |
| On account of Salary of State Agent | 2,500 | |
| On account of expenses of Agency, (incidental,) | 700 | |
| On account of Interest and Exchange | 4,000 | |
| | | 317,200 00 |
| On account of Deaf and Dumb Asylum | $12,000 | |
| On account of Blind Asylum | 10,000 | |
| On account of Insane Hospital, | 20,000 | |
| | | 42,000 00 |
| Total estimate of appropriation for 1855, | | $483,138 69 |

This estimate looks large, but then it includes some items which are necessarily larger than usual: for instance we refer to the item of "State Prison," set down at $10,000, in order to cover the amount overdrawn on last year's appropriation, by sheriffs, in accordance with the decision of the Supreme Court, rendered on the question of mileage for conveying convicts.

The question of mileage was raised on the construction of the following language of section 1, chapter 70, of 1st volume R. S., 1852: "That sheriffs of the several counties in this State, for their services in conveying convicts to the State Prison, shall be allowed mileage *themselves* in going and returning therefrom"—sheriffs contending that they were entitled, under this section of the law, to mileage for the whole distance traveled, both in *going to* and *returning from* the State Prison, and the State Auditor assuming the ground that the obvious meaning of the foregoing language of the statute, taken in connection with the language of the 4th clause of section 2, chapter 37, 1st volume R. S., which reads thus—"For taking a convict to the State's Prison, per

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mile, to be paid out of the State Treasury, twenty-five cents"—was to pay sheriffs mileage at the specified rates, for *themselves*, in going to the State's Prison, but allowed them nothing for returning from thence. This being the view taken of the law in reference to this subject, by this office, a course of action in accordance therewith was followed by the undersigned, until a decision to the contrary was given by the Supreme Court of the State, in the case of the Sheriff of Elkhart county *v.* the Auditor of State, &c. Under this *ruling* of the law, sheriffs have been paid twenty-five cents per mile, both for *going to* and *returning from* the State's Prison. Hence the appropriation for this item has been largely overdrawn. It is for the General Assembly to remedy this evil, if they should in their wisdom so consider it, and accordingly amend the law. Their attention is respectfully called to this subject at an early day.

*Ordinary Expenditures Estimated for* 1856.

| | |
|---|---|
| On account of Judiciary | $20,000 |
| On account of Executive | 7,000 |
| On account of Prosecuting Attorneys | 3,300 |
| On account of Supreme Court Reports | 2,000 |
| On account of Miscellaneous Accounts | 1,500 |
| On account of Public Printing and Binding | 5,000 |
| On account of Fuel and Stationery | 4,000 |
| On account of State Prison | 5,000 |
| On account of Governor's House | 500 |
| On account of State House | 500 |
| On account of State Library | 1,000 |
| On account of Contingent Fund | 1,000 |
| On account of Supreme Court | 1,000 |
| On account of Militia | 500 |
| On account of Attorney's fees | 1,000 |
| On account of Governor's Circle | 100 |
| Total ordinary expenses for 1856 | $53,400 |

The extraordinary expenditures, estimated are,

| | | |
|---|---|---|
| On account of Interest on State Debt, | 310,000 | |
| On account of salary of Agent | 2,500 | |
| On account of Incidental Expenses of Agency | 700 | |
| On account of Interest and Exchange | 4,000 | |
| | | 317,200 |

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| | | |
|---|---|---|
| On account of Deaf and Dumb Asylum | 12,000 | |
| On account of Blind Asylum | 10,000 | |
| On account of Insane Hospital | 20,000 | 42,000 |
| Total estimated expenditures for 1856 | | $412,600 |

J. P. DUNN,
*Auditor of State.*

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